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Ontario Municipal **B**oard



Annual Report 1997-98



Ministry of Municipal Affairs and Housing

Office of the Minister

777 Bay Street Toronto ON M5G 2E5 Tel (416) 585-7000 Ministère des Affaires municipales et du Logement

Bureau du ministre

777 rue Bay Toronto ON M5G 2E5 Tél (416) 585-7000



TO THE LIEUTENANT GOVERNOR OF THE PROVINCE OF ONTARIO

MAY IT PLEASE YOUR HONOUR:

For the information of Your Honour and the Legislative Assembly, we have the privilege of presenting the Annual Report of the Ontario Municipal Board for the year 1997-98.

Respectfully submitted,

Hon. Al Leach

Minister of Municipal Affairs and Housing



Ontario Municipal Board

Commission des Affaires municipales de l'Ontario Office of the Chairman

Bureau du Président 655 Bay Street Suite 1500 Toronto, Ontario M5G 1E5

TO THE HONOURABLE AL LEACH MINISTER OF MUNICIPAL AFFAIRS AND HOUSING

MINISTER:

I have the pleasure of submitting for the approval of the Legislature the Annual Report of the Ontario Municipal Board for 1997-1998.

Douglas Colbourne

Chair

Ontario Municipal Board

Chair's Message

Even in a period of great change, the Ontario Municipal Board managed to better its performance for its customers this fiscal year. The Board worked closely with the director of the Agency Reform Project, Joanne Davies of the Ministry of Municipal Affairs and Housing, to develop future efficiencies. The Cabinet cross-appointed three members, Vice-Chairs Robert Owen, Susan Fish and myself to the Assessment Review Board (ARB), partly to further the goal of administrative consolidation of the functions of the two tribunals. These appointments enabled the two Boards to streamline their procedures as well as to work towards future joint operations. The workload increased, however, for the remaining Vice-Chairs and staff of the OMB. The assessment caseload climbed as the last of the appeals for 1997 were received. Additional hearings for commercial assessments may occur in the future because of changes in government policy.

Board members and staff continued to refine the case management processes and the automated case management system. The time from receipt of appeal to hearing was on average four months, compared to six to nine months a few years ago, and less than four months for some minor matters. Hearings were avoided entirely by actively encouraging prehearing procedures such as mediation, telephone motions and meetings. In other cases, hearings were streamlined by eliminating some issues in pre-hearing procedures, saving time and money for all participants. Members' performance evaluations focussed on expeditious issuance of effective, well-reasoned decisions. Staff were also subject to performance measures as the Board concentrated on the delivery of rapid but high-quality decision-making for its customers.

I would like to thank all Board members and staff for their dedication to the Board's work and for their continuing excellent service to stakeholders. It is a pleasure serving as Chair of this Board.

Douglas S. Colbourne

ANNUAL REPORT

Purpose of the Board

The Ontario Municipal Board (OMB) is an independent, quasi-judicial administrative tribunal. Its principal function is to resolve appeals from decisions made by Ontario municipalities or other decision makers, either in pre-hearing procedures or by holding public hearings.

History and Jurisdiction

The Ontario Municipal Board is one of the province's oldest institutions. Its functions began in 1897, when the Office of the Provincial Municipal Auditor was established to supervise account-keeping by municipalities. In 1906 the Ontario Railway and Municipal Board was created, with the added responsibility of supervising the then-burgeoning mode of transport between and within municipalities. In 1932 the Board was renamed the Ontario Municipal Board. Most of the powers given to the Board at that time have been retained to this day, and have been expanded greatly by ensuing legislation of all types.

The Board now obtains jurisdiction under approximately 100 public statutes and more than 400 private statutes. However, most of its work arises from the <u>Planning Act</u> and the <u>Assessment Act</u>. (Changes to the latter Act have now eliminated appeals to the Board, but the OMB continued to process outstanding matters which have been placed on hold, are awaiting court cases or action by the ARB or the parties involved.) Other matters include land compensation, development charges, ward boundaries and aggregate resources. The Board continued to expedite resolution of 1997 and prior assessment appeals to implement the government's major change to assessment policy and methodology.

During the transition to the Property and Planning Tribunal it was proposed that thorough reviews of the Board's legislative authority be conducted so that it may be rationalized.

Administration of the Board Act

On March 6, 1992, the administration of the <u>Ontario Municipal Board Act</u> was transferred from the Attorney General to the Minister of Municipal Affairs (now Minister of Municipal Affairs and Housing) by Order-in-Council 44/92.

Members of the Board

Board membership numbered 25 full-time and 6 part-time (Order-in-Council) appointees at the end of 1997-1998. Following an interview process, members are selected by the Cabinet for a three-year term. The profile of the membership reflects a variety of professions including lawyers, planners, engineers, accountants, economists, farmers, teachers, professors and municipal politicians and administrators. The head office of the Board is in the City of Toronto, but many members live in locations outside the Toronto area, including Clarington, Sudbury, Waterloo, Kingston, Ottawa and Grey and Bruce counties. Two Board members were bilingual, although one left the board by year's end. Members of the Board are listed on the final pages of this report.

During the year under review, five full-time and six part-time members were appointed to the Board.

Full-time Appointees

Donald R. Granger was appointed on November 3, 1997. He was a professor at Mohawk College and a former mayor of the Town of Flamborough.

Marie Hubbard was appointed on December 10, 1997. She is a former mayor of the Town of Newcastle (1989-1992) and was also chair of the Planning Committee, Region of Durham, from 1985 until 1992.

Norman C. Jackson was appointed on October 26, 1997. He was a city solicitor for the City of Kingston and appeared frequently before the Board on planning and municipal matters.

Dennis Y. Perlin was appointed on September 1, 1997. He is a lawyer and was a city solicitor for the former City of Toronto. Mr. Perlin practised with the firm of Weir and Foulds prior to his appointment to the Board.

Susan D. Rogers was appointed on September 8, 1997. She practised as a lawyer with the firm of Goodman and Carr in Toronto. Ms. Rogers' specialty was the field of municipal and planning law and she appeared frequently before the Board.

Part-time Appointees

In December of 1997 six part-time members were appointed to the Board, all former full-time members of the Board. They were appointed to assist in the commitment to complete the assessment caseload by the end of 1999. The members are:

Norval L. Cheeseman, Ernest F. Crossland, Robert B. Eisen, Donald W. Middleton, John A. Wheler, and Peter G. Wilkes.

The following members have left the Board:

Julie Gagnon was a member for six years. She was formerly an associate with Osler, Hoskin and Harcourt in Ottawa and a law teacher at the University of Ottawa and Algonquin Community College.

Barbara Heidenreich was the executive director of the Canadian Institute for Environmental Law and Policy, an associate professor at Trent University and adviser to both federal and provincial governments on environmental and native affairs. She was a member for six years.

Wendy King was a member for nine years. She was both senior legal counsel and member of the Social Assistance Review Board before joining the OMB, and had been a policy analyst at the Ontario Women's Directorate before that time.

Michael Melling, a lawyer with significant experience in landlord and tenant and poverty law issues, was a Board member for three years. He also was counsel in the Policy Development Division in the Ministry of the Attorney General.

Nancy Smith was a member for three years, and was previously chair of the Ontario Housing Corporation. Prior to that she was a councillor in the City of Ottawa and the Regional Municipality of Ottawa-Carleton.

John Wheler was a member of the Board for 23 years. He came to the Board from his position as assistant city solicitor for the City of Toronto.

MARY ELLEN JOHNSON

A much revered Vice-Chair, **Mary Ellen Johnson** passed away on October 19, 1997. She was the only woman in her law class at the University of Alberta in 1958, and went on to practice law and then obtained Masters degrees in planning and public administration. She came to the Board in 1988 from the position of Director of Land Use Control in the City of North York. She was appointed Vice-Chair in 1992, and worked tirelessly to promote better service for stakeholders. She also contributed significantly to the administrative justice system through her work in the Society of Ontario Adjudicators and Administrators (SOAR). She is greatly missed by all of her colleagues and those who appeared before her.

New Member Orientation and Continuing Education

The OMB has a formal training program for new members, pairing them with experienced Board members as mentors. They are assigned with other members to hearings of varying complexity and in differing subject areas. Training includes an orientation program, an introduction to the applicable statutes, and a checklist of items such as the conduct of hearings, motions, proper production of evidence, writing decisions and handling requests from the media.

The Continuing Education Committee, chaired by Vice-Chair Diana Santo, conducts monthly half-day workshops on a variety of topics, including changes in legislation, recent court decisions, argument and evidence. Members of organizations such as the Canadian Bar Association and the Ontario Professional Planners Institute, as well as government representatives, are asked to participate in these sessions so that useful dialogue can take place and customer feedback is obtained. This consultation also takes place at a two-day intensive training seminar held each year.

The Board actively supports the Society of Ontario Adjudicators and Regulators (SOAR), including its member training programs and the annual Conference of Ontario Boards and Agencies (COBA). Board members and counsel also hold memberships in the Council on Canadian Administrative Tribunals (CCAT), which has a three-day educational conference each year.

New Legislation Affecting the OMB

Both the <u>Assessment Act</u> and the <u>Municipal Act</u> were substantially amended during the year. After January 1, 1998 there was no longer an appeal to the Board from a decision of the Assessment Review Board. The Board engaged in a special project to finalize the remaining assessment workload, with the dual purpose of ensuring a smooth transition to the new tribunal and to effect the major change to the assessment system.

Appeals continued unabated under all three planning regimes created by the three sets of amendments to the <u>Planning Act</u>, requiring that staff retain expertise in dealing with each version of the Act.

A new <u>Development Charges Act</u> was also passed, and the Board's duties under this legislation will be increased by the addition of one type of appeal. The <u>Aggregate Resources Act</u> altered the nature of the Board's role, from that of merely reporting to the Minister of Natural Resources on a pit or quarry application, to that of final adjudicator.

Case Management

As in the last fiscal year, the Ontario Municipal Board had to become more efficient and effective with fewer resources. Decisions of the Board have significant impact on the province's economic development. However, other concerns such as protection of the natural environment and other interests of the public must also be considered in reaching good decisions. The Board has expanded on its many pre-hearing procedures to try to resolve matters expeditiously yet fairly, even before hearings are required. Members greatly increased the use of mediation, and held one or more pre-hearings to narrow the issues in major matters. Settlement hearings and short informal hearings also reduce the time it takes before a decision is issued.

The principal mechanism for assessing the utility of any such alternative for a matter coming before the Board is the case management process, automated and otherwise. Case management was extended because it proved to be invaluable in reducing the number and length of hearings. Through the combined efforts of Vice-Chairs and expert staff, a matter is supervised from receipt to resolution, with the goal being to reduce the scope of hearings or eliminate them completely. Staff analysis and recommendations for case processing go to Vice-Chairs for direction. In complicated matters, case managing members are appointed to supervise the procedural steps and oversee the matters to resolution.

Each Vice-Chair has responsibility for advising on policy and giving direction in a specific area of the Board's jurisdiction. With the cross-appointments of the Chair and two Vice-Chairs to the Assessment Review Board, an even greater workload resulted for all the OMB Vice-Chairs because the cross-appointees cannot participate in management of OMB assessment appeals. In addition to their weeks of Duty Vice-Chair responsibilities, which include assigning case management of major cases to a roster of members, Vice- Chairs provide general direction to members and staff in their areas of responsibility. They also have other administrative duties such as the refinement of the case management process, staff and new member training, continuing education and member support services.

Board management staff was further re-engineered to better reflect the OMB's core business, and other staff reassigned because many employees were seconded to other areas of government.

With the assistance of its automated Case Management Information System (CMIS), the Board was processing most cases from start to finish in approximately four to eight months — one-third the time required five years ago. With one-third fewer staff and with fewer members than in the last 20-year period, the OMB has been able to further reduce its processing times. This was true even though changes to assessment appeals required that the Board finalize the assessment workload, placing additional pressure on resources.

The Board extended other practices which ensure greater efficiency. These are:

1. Practice Directions

The OMB reissued 13 updated Practice Directions, which set out Board procedures and rules to make Board processes more effective. These include procedures for pre-hearing conferences, motions, an adjournment policy, mediation, awards of costs, service of documents by fax, preparation of exhibits for hearings, special rules for assessment and land compensation matters, and the Board's reconsideration process.

2. Telephone Hearings and Motions

The Board made almost daily use of this time- and money-saving procedure to replace inperson hearings that required extensive member and party travel. The Board conducts prehearing conferences and informal and settlement hearings by telephone conferencing. Although these do not take place when the matter involves a significant public interest and requires more input, these approaches proved highly effective for cases that involve few parties and issues. Pre-filed affidavit evidence is read by the member prior to the conference, saving the parties and the Board time and money.

The Board also increased its use of telephone motions. The Duty Vice-Chair conducts conference calls with the parties to hear procedural and other motions, except for cases in which visual evidence or numerous witnesses must be introduced. These calls are booked through the Board's Hearings Division and can usually be arranged on short notice.

3. Mediation

Mediation or facilitation continued to be a valuable case management tool, even though it is not mandatory. When deemed appropriate, it is conducted by Board members, and is subject to a Mediation Practice Direction.

During the year the Board members attended a two-day course in interest-based mediation to enhance these skills, because mediation is of increasing importance in reducing hearings and saving resources.

A mediation is usually arranged before a hearing is scheduled, especially if requested by the parties. Members may also initiate this process at the time appointed for the hearing. Even in mid-hearing a member may attempt to effect settlement, or ask another member to mediate when resolution by this route appears possible. Mediation frequently results in the resolution of matters without the expense of a full hearing, even for major appeals. This was especially effective in matters involving shopping malls or "big box" stores, when eliminating the larger issues led to full resolution of other planning questions.

It was clear that mediation lowers hearing time and cost. The issues are usually reduced, and the appeal can often be resolved by other members through a telephone call or a one-hour hearing.

Recent comments by stakeholders enthusiastically endorsed mediation to settle matters, or at least reduce the number of issues. Many parties and municipalities request mediation instead of a hearing when filing appeals, and the mediation caseload continued to increase significantly.

4. Information Technology

The Board's computer system, the Case Management Information System (CMIS), continues to evolve and is constantly being improved. Faster desktop and laptop hardware was leased. This, together with the specialized system, allows the Board to function much more rapidly and effectively. New software tracks files, analyses caseloads and provides timelines to enable measurement and monitoring of each step in the process. This provides information that allows the Chair and management to locate slowdowns so that resources can be directed to those areas. Staff and members can more easily administer files and issue decisions. Members can access electronic files from anywhere in the province, and send decisions to Toronto where they are formatted, printed, and issued.

This results in far fewer steps in file processing. It has enhanced management reporting, such as the capacity to report on case status and other statistics, which makes it possible for the Board to meet its mandate with far fewer resources. A new system was being planned to perform this function for the combined tribunal, and systems analysis was devoted to that task.

During the year the OMB established a website at **www.omb.on.ca**. The site provides all the basic information that users would seek about the Board: a guide to the Ontario Municipal Board, practice directions, legislation conferring authority, contacts at the Board, frequently asked questions, how to receive a decision or order, other Internet resources, and a feedback mechanism.

5. Case Management: Assessment Appeals

The <u>Fair Municipal Finance Act</u>, 1997 amended the <u>Assessment Act</u> to remove the right to appeal to the Ontario Municipal Board from a decision of the Assessment Review Board. However, any matter heard by the Assessment Review Board before January 1, 1998 could continue to be appealed to the Board.

The Board received most of the remaining appeals from decisions of the Assessment Review Board in the latter part of the year. The intake of assessment files increased by approximately 100 per cent over the previous fiscal year.

At year end, the Board had a remaining workload of approximately 2,900 cases to resolve. In recognition of the dollar value of assessment which remains under appeal and in preparation for the creation of the proposed Property and Planning Tribunal, the Board committed to complete its assessment caseload by the end of 1999.

Additional resources were allocated for this task by new hiring. The government also appointed six former members of the Board as part-time members to hear assessment cases. These appointments will allow the Board to finalize the assessment caseload without impacting on its ability to resolve other matters before it.

Case management techniques were also applied to assessment appeals, and results reinforced the utility of this approach. Vice-Chair Marilyn Eger supervises the assessment workload and the case managing members. The parties used to be required to set out and respond to a statement of issues and to agree when they were ready for a hearing. However, the Board was able to largely forego the formality of exchange and filing requirements because matters tended to settle before the hearing through active case management by members and staff. The procedures were designed to promote early disclosure of issues and timely resolution of any preliminary and procedural matters. This allowed the parties to assess their positions and determine whether settlement was possible, a withdrawal was appropriate or that a hearing was unavoidable. When hearings were necessary, the reduction of issues in the case management process resulted in shorter hearings.

As mentioned, many cases were settled or withdrawn close to a hearing date. The prospect of an impending hearing is often the impetus to the final settlement talks. Sixty-one per cent of the cases closed in this fiscal year were closed as a result of settlements or withdrawals.

The Board's statistics indicate that a proactive approach to assessment appeals produces results that are well worth it. Although 35 per cent of calendar time was initially assigned to assessment appeals, the case management process reduced actual calendar time required for hearings to 10 per cent. Expeditious resolution of assessment issues helped to provide certainty to municipalities.

FINANCIAL SUMMARY

Revenue

Using the authority in section 100 of the <u>Ontario Municipal Board Act</u>, filing fees have been set for each application, appeal or referral. Revenues collected under section 99 of the Act are reported as miscellaneous. They include, for example, fees for publications, copies of documents, maps or plans, and all certificates provided under the legislation. The fees collected by the Board are transferred to the Minister of Finance.

Fees Collected

APPLICATION APPEAL OR RENEWAL FEES	1997 - 98	1996 - 97	1995 - 96	
Capital Expenditures	\$ 14,375.00	\$ 24,618.00	\$ 15,954.00	
Planning Act Matters	212,439.00	276,388.00	253,700.00	
Assessment Appeals	265,465.00	145,070.00	230,857.91	
Miscellaneous	4,672.00	4,214.00	4,741.25	
TOTAL	\$496,951.00	\$450,290.00	\$505,253.16	

ALLOCATION

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of Municipal Affairs and Housing on a fiscal year basis.

ACTUAL EXPENDITURES FOR THE PAST THREE FISCAL YEARS

ACCOUNT ITEM	1997 - 98	1996 - 97	1995 - 96	
Salary & Wages	\$4,662,055.00	\$4,716,154.00	\$4,914,192.00	
Employee Benefits	1,112,374.00	873,427.00	598,108.00	
Transportation & Communications	541,837.00	505,397.00	647,582.00	
Services	612,626.00	370,324.00	696,219.00	
Supplies & Equipment	123,679.00	95,150.00	185,066.00	
Transfer Payments	r Payments nil		nil	
TOTAL	\$7,052,571.00	\$6,560,452.00	\$7,041,167.00	

1997/98 actual expenditures were somewhat higher in some categories because they include:

1. ASSESSMENT CASES WORKLOAD - \$147,354

In order to position OMB for the transition to the new tribunal, additional Board members and staff were required to deal with appeals that were still being filed based on the two-level appeal process.

2. CMIS (PHASE I) - \$208,372

A new Case Management Information System (CMIS) initially developed for OMB by the Information Technology Services Branch of the Ministry of Municipal Affairs and Housing, required additional programming (e.g. reports, form letters) and data entry of information from the old system at the Board's cost.

3. EMPLOYEE BENEFITS - \$1,112,374

This includes significant amounts for severance payments as a result of staff restructuring and the retirement of long-serving full-time Board members.

ONTARIO MUNICIPAL BOARD WORKLOAD STATISTICS

	plication, Appeals	1997 to 1998		1996 to 1997		1995 to 1996	
	Referrals ceived by Type	#s	%	#s	%	#s	%
1	Assessments	2,100	50%	1,088	36%	2,191	49%
2	Capital Expenditures	24	1%	58	2%	91	2%
3	Zoning By-laws	339	8%	363	12%	384	9%
4	Appeals from Council	186	4%	141	5%	173	4%
5	Minor Variances	601	14%	579	19%	593	13%
6	Consent Appeals	454	11%	378	13%	490	11%
7	Official Plans	261	6%	195	6%	235	5%
8	Plans of Subdivision	107	3%	66	2%	88	2%
9	Miscellaneous	87	2%	116	4%	104	2%
10	Land Compensation	24	1%	28	1%	41	1%
11	Consolidated Hearings	1	0%	1	0%	5	0%
12	Development Charges	5	0%	9	0%	93	2%
	TOTAL	4,189	100%	3,022	100%	4,488	100%

MEMBERS OF THE ONTARIO MUNICIPAL BOARD

(During this fiscal year 1997-1998)

(During this fiscal year 1997-1998)	
CHAIR	Date Appointed
COLBOURNE, Douglas S. Vice-Chair Executive Vice-Chair Chair	September 3, 1968 June 1, 1977 November 1, 1993 November 1, 1996
EXECUTIVE VICE-CHAIR	
FISH, Susan Vice-Chair	September 26, 1994 November 1, 1996
VICE-CHAIRS	
EGER, Marilyn F.V. Vice-Chair	August 6, 1991 September 8, 1994
JOHNSON, Mary Ellen Vice-Chair Deceased	July 12, 1988 August 27, 1992 October 19, 1997
OWEN, Robert D.M. Vice-Chair	January 4, 1983 August 27, 1992
SANTO, Diana L. Vice-Chair	March 10, 1980 June 6, 1991
MEMBERS	
BEACH, Calvin A. BOXMA, J. Robert DELFINO, Angelo EMO, Ronald J. GAGNON, Julie	March 2, 1992 January 1, 1997 January 3, 1989 February 5, 1997 September 3, 1991 to November 21, 1997
GRANGER, Donald R. HARRON, Gary A. HEIDENREICH, Barbara	November 3, 1997 December 1, 1982 December 2, 1991 to December 31, 1997
HUBBARD, Marie JACKSON, Norman C.	December 10, 1997 October 26, 1997

KATARY, Narasim M.
KING, Wendy E.
KRUSHELNICKI, Bruce W.
LEE, S. Wilson
MCLOUGHLIN, Brian
MILLAR, Claudette M.
MILLS, James R.
O'BRIEN, James L.
PERLIN, Dennis Y.
ROGERS, Susan D.
ROSENBERG, Morley A., Q.C.
SMITH, Nancy L.
WATTY, W.R. Franklin
WHELER, John A., Q.C.
YAO, Ted

August 1, 1989
February 1, 1982 to March 20, 1998
August 6, 1991
January 1, 1988
January 1, 1984
May 15, 1989
May 10, 1982
January 1, 1997
September 1, 1997
September 8, 1997
January 3, 1983
August 1, 1994 to September 4, 1997
August 1, 1989
September 3, 1974 to July 25, 1997
July 3, 1989

PART-TIME MEMBERS

CHEESEMAN, Norval L. CROSSLAND, Emest F. EISEN, Robert B. MIDDLETON, Donald W. WHELER, John A. WILKES, Peter G. December 3, 1997 December 3, 1997 December 3, 1997 December 3, 1997 December 3, 1997

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Ministry of Municipal Affairs and Housing

Office of the Minister

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TO THE LIEUTENANT GOVERNOR OF THE PROVINCE OF ONTARIO

MAY IT PLEASE YOUR HONOUR:

For the information of Your Honour and the Legislative Assembly, we have the privilege of presenting the Annual Report of the Ontario Municipal Board for the year 1996-97.

Respectfully submitted,

Hon. Al Leach

Minister of Municipal Affairs and Housing





Ontario Municipal Board

Office of the Chairman

Commission des

Bureau du Président

Suite 1500 Toronto, Ontario M5G 1E5

655 Bay Street

Affaires municipales de l'Ontario

TO THE HONOURABLE AL LEACH, MINISTER OF MUNICIPAL AFFAIRS AND HOUSING

MINISTER:

I have the honour to submit for your approval the Annual Report for 1996-97 of the Ontario Municipal Board.

Respectfully submitted,

D.S. Colbourne

Chair, Ontario Municipal Board





Ontario Municipal Board

Commission des Affaires municipales de l'Ontario Office of the Chairman

Bureau du Président 655 Bay Street Suite 1500 Toronto, Ontario M5G 1E5

Chair's Message

Much was accomplished during the year under review as the Ontario Municipal Board continued to prepare for the challenges that lie ahead. The Board entered its 100th year of service in an era of major changes for the province as a whole. My term as Chair of the Board began on November 1, 1996 mid-way through the fiscal year.

Management Board of Cabinet adopted recommendations which would create a new tribunal, the Property and Planning Tribunal, which would replace this Board and others. Much of the Board's planning in the last few months of the year was conducted with a view to possible changes in administration, although the form of these changes was largely unknown at year's end. The OMB now shares office accommodation with one of the tribunals to be joined with it, the Board of Negotiation under the Expropriations Act. Other proposals for agency reform in the areas of hearing procedures, accountability and performance measures, information technology and delivery of shared services would affect the entire tribunal community.

In the meantime, Members and staff at the Board continued to streamline our processes. Hearings can now usually be held within four or five months of an appeal. Perhaps more importantly, many new alternative methods were being pursued to reduce the need for hearings, or their length - crucial in an era of significant fiscal restraint. Decisions are rendered more expeditiously. All of these initiatives left the Board better equipped to continue to provide excellent service to the people of Ontario.

Douglas S. Colbourne



Purpose of the Board

The Ontario Municipal Board (OMB) is an independent, quasi-judicial administrative tribunal. Its main function is to hold public hearings on, or otherwise resolve appeals from decisions made by Ontario municipalities or other decision makers.

Jurisdiction

The Ontario Municipal Board had its beginnings in 1897, when the Office of the Provincial Municipal Auditor was established to supervise account-keeping by municipalities. In 1906 the Ontario Railway and Municipal Board was created, and this was continued by 1932 legislation as the Ontario Municipal Board. Most of the powers given to the Board at that time have been retained to this day, but have been expanded greatly by ensuing legislation.

The Board obtains jurisdiction under approximately 100 public statutes and more than 80 private statutes. However, most of its work arises from the Planning Act and the Assessment Act. Other matters include land compensation, development charges, ward boundaries, and aggregate resources.

Administration of the Board Act

On March 6, 1992, the administration of the Ontario Municipal Board Act was transferred to the Ministry of Municipal Affairs (now Ministry of Municipal Affairs and Housing) by Order-in-Council 44/92.

Members of the Board

Board membership numbered 27 full-time and one part-time (Order-in-Council) appointees at the end of 1996-1997. Members come from a variety of professions: lawyers, planners, engineers, accountants, economists, farmers, environmentalists, teachers, professors, and municipal administrators. The head office of the Board is in the City of Toronto, but some members live in locations outside Metropolitan Toronto, including Peterborough, Ottawa, Sudbury, Waterloo, Kingston, Collingwood and Bruce County. With about 2,000 hearings held each year, Board Members are required to travel extensively throughout the province.

This year three new members were appointed to the Board.

J. Robert Boxma was appointed January 1, 1997. A lawyer, he was with the firm of Smith, Lyons in the City of Toronto. He practised many years in the municipal and planning fields and appeared frequently before the Board and the Environmental Assessment Board.

James L. O'Brien was appointed January 1, 1997. He is a lawyer with extensive experience in the municipal and planning areas both with the Regional Municipality of Ottawa-Carleton and the City of Ottawa, and also has a great deal of experience before the Board.

Ronald J. Emo was appointed February 5, 1997. An Ontario land surveyor and land economist, he was in practice in Collingwood for many years. He was formerly Mayor of Collingwood, and served on several inter-municipal committees such as waste management and housing.

The following members have left the Board since the last report:

Helen Cooper was formerly a councillor and then mayor of the City of Kingston. She served as Chair of the Board for three years.

Meena Dhar, formerly a planner with the City of Toronto, served as a Member for three years.

Grant Morris, a planner, was in private practice and then with the Ministry of Municipal Affairs. He served as a Member for five years.

Gilbert Heroux, a planner, held a number of positions with the Ontario Government, latterly as executive director of the Intergovernmental Committee on Urban and Regional Research. He served as a member for four years.

At present, one Board member is Francophone and two are bilingual. Members of the Board are listed on the last pages of this Report.

New Member orientation and continuing education

The OMB has a formal training program for new Members, pairing them with experienced Board Members as mentors. They are assigned to hearings of varying complexity and on various topics with other Members. Training includes an orientation program, an introduction to the applicable statutes, and a checklist that covers such matters as the conduct of hearings, motions, proper production of evidence, writing decisions and dealing with the media.

The Continuing Education Committee conducts monthly half-day workshops on a variety of topics, including changes in legislation, recent court decisions, argument and evidence, and other matters facing the Board.

New Legislation Affecting the OMB

Bill 20 was enacted in May 1996 to reform the Planning Act and streamline the planning process. The Bill revised procedures for planning applications at the Provincial and Municipal levels. The Ontario Municipal Board reviewed and adapted its procedures, practices and forms, and updated Members and staff. During this time, applications were received under Bill 20 as well as under the previous Bill 163.

Development Charges Act changes, anticipated later in 1997, were expected to further increase the number of appeals under this legislation, which fell off during the year under review because of the proposed amendments. Major alterations proposed for the Assessment Act and the Municipal Act would significantly alter the responsibilities of the Board.

Case management

The Ontario Municipal Board shares with other public sector agencies the necessity of becoming more efficient and effective with fewer resources. As decisions of the Board have significant impact on the Province's economic development, and must also protect the natural environment and the interests of the public, the Board has created many alternative mechanisms in order to resolve matters expeditiously yet fairly before hearings take place. It has expanded its use of mediation, prehearings to narrow the issues, settlement hearings and short informal hearings.

The principal mechanism for assessing the utility of any such alternative for each matter coming before the Board is the case management process. The Board's use of case management to reduce the number and length of hearings has been extended. Through the combined efforts of Vice-Chairs and expert staff, a matter is supervised from receipt to resolution, without a full hearing if possible. Staff analysis and recommendations for case processing go to Vice-Chairs for direction. Case Managing Members are then appointed to supervise the procedural steps and see the matter to resolution.

Each Vice-Chair has also been given responsibility for advising on policy and giving direction in a specific area of the Board's jurisdiction. In addition to their weeks of Duty Vice-Chair responsibilities, which include assignment of case management of major cases to a roster of Members, they provide general direction to Members and staff in their area of responsibility. They are also assigned other administrative duties such as

the development of the Case Management process, staff and new Member training, continuing education and Member support services.

The Board staff was restructured as recommended in previous management studies.

In the result, the Board is processing most cases from start to finish in approximately six to eight months. This is one-third the time taken five years ago. With one-third fewer staff and with less members than the last 20 years, the OMB has been able to further reduce its processing times.

Another important factor in this reduction was the management by a Vice-Chair of the major retail centre disputes, which in the past would have required several months hearing time. The new procedure involved several prehearing meetings, imposition of strict time frames and requirements for expert witnesses to narrow issues. This greatly reduced the length of the ensuing hearings.

Other elements of Board practice which contribute to greater efficiency:

1. Practice Directions

The OMB has issued 13 *Practice Directions*, which guide Board procedures and set rules to make Board processes more effective. These include rules for prehearing conferences, motions, an adjournment policy, mediation, awards of costs, service of documents by fax, preparation of exhibits for hearings, special rules for assessment and land compensation matters, and the Board's reconsideration process.

2. Telephone Hearings and Motions

The Board makes almost daily use of this time- and money-saving procedure to replace in-person hearings that required extensive Member and party travel. It uses telephone conference calls for prehearing conferences, informal or settlement hearings and motions. Although these are not conducted where the matter involves a significant public interest, they have proven highly effective for cases that involve few parties and issues. They will be used more frequently in the future. Prefiled affidavit evidence is read by the Member prior to the conference.

The Board also expanded its "telephone motion days". Conference calls with the parties are conducted by the Duty Vice-Chair on any day of the week to hear procedural and other motions, except where visual evidence or numerous witnesses must be introduced. These calls are booked through the Board's Hearings Division.

3. Mediation

Mediation by Board Members replaced the former staff mediators, and proved to be very successful. Our original staff mediators made the process credible, and Members carry on this fine tradition. Mediation or facilitation is now a standard case management tool utilized by Board Members where appropriate, and is subject to a Mediation *Practice Direction*. The Members either arrange a mediation before a hearing is scheduled, or attempt this process at the time appointed for the hearing. This frequently results in the resolution of matters without the expense of a full hearing, even for major appeals. This has been especially effective in matters involving shopping malls, where eliminating the larger issues led to full resolution of other planning questions.

Feedback from our stakeholders continues to support the increased use of mediation to settle matters, or at least reduce the issues. Many parties and municipalities request a mediation instead of a hearing when filing appeals, and the mediation caseload has increased significantly. Several municipalities and committees of adjustment have developed their own mediation programs to settle land use disputes in-house before they reach the OMB.

Mediation has lowered hearing time and cost, since as a minimum the issues are usually reduced and can often be resolved by other Members at telephone or one-hour hearings.

4. Information Technology

The last year has seen the development of a main computer system, the Case Management Information System, to replace the outdated mainframe system. This, together with faster leased desktop and laptop hardware, would allow the Board to function much more rapidly and effectively. It includes software that tracks files, analyses caseloads and provides timelines to measure and monitor each step in the process. This provides information that allows the Chair and management to locate backlogs so that resources can be directed to those areas. Staff and Members can more easily administer files and issue decisions. Members can access electronic files from anywhere in the province, and send decisions to Toronto where they are formatted, printed, and issued.

This results in far fewer steps in file processing, and involved comprehensive training. It has enhanced management reporting, such as the capacity to report on case status and other statistics, which makes it possible for the Board to meet its mandate with far fewer resources. When the system becomes fully operational, there will be fewer dealings with a paper file and a significant reduction in repetitive tasks.

5. Case Management: Assessment Appeals

New rules and a case management approach to assessment appeals have also resulted in major benefits in case processing. Even though the fiscal years 1994-1996 saw an increase in such appeals, there was also an increase in the number of files finalized by the Board during that period, and this has continued to the present. A Vice-Chair supervises the assessment workload.

The goals of the assessment rules are to bring all parties together to deal with a case on a timely basis, and to reduce the amount of time required for a hearing. Thus the parties are required to set out and respond to a statement of issues and agree when they are ready for a hearing. A date is then assigned.

Some parties may choose to have their dispute settled through case management. The Board holds prehearings to deal with preliminary and procedural matters and to explore the possibility of settlement. As a result, many assessment cases are withdrawn, settled, or result in much shorter hearings.

The Board's statistics indicate that a proactive approach to assessment appeals produces results that are very encouraging - and not only in terms of organizational efficiency. Although 35 per cent of calendar time is initially assigned to assessment appeals, the case management process reduces actual calendar time required for hearings to 10per cent. Expeditious resolution of assessment issues helps provide certainty to municipalities.

Proposed changes to the Assessment Act would affect both the method of assessment and the appeal procedures.

FINANCIAL SUMMARY

Revenue

The Board has adopted under section 100 of the Ontario Municipal Board Act a tariff which establishes a filing fee in connection with each application, appeal or referral. Revenues collected under section 99 of the Act are reported as Miscellaneous. They include, for example, fees for publications, copies of documents, maps or plans, and all certificates as to the same. The fees collected by the Board are paid to the Minister of Finance.

Fees Collected

APPLICATION APPEAL OR RENEWAL FEES	1996 - 1997	1995 - 1996	1994 - 1995	
Capital Expenditures	\$ 24,618.00	\$ 15,954.00	\$ 45,679.75	
Planning Act Matters	276,388.00	253,700.00	259,075.00	
Assessment Appeals	145,070.00	230,857.91	11,865,00**	
Miscellaneous	4,214.00	4,741.25	7,986.34	
TOTAL	\$450,290.00	\$505,253.16	\$324,606.09	

^{** \$241,210} fees for assessment appeals were collected by the Assessment Review Board and retained by the Ministry of the Attorney General.



ALLOCATION

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of Municipal Affairs and Housing on a fiscal year basis.

ACTUAL EXPENDITURES FOR THE PAST THREE FISCAL YEARS

ACCOUNT ITEM	1996 - 1997	1995 - 1996	1994 - 1995	
Salary & Wages	\$4,716,154.00	\$4,914,192.00	\$5,257,897.00	
Employee Benefits	873,427.00	598,108.00	737,351,00	
Transportation & Communications	505,397.00	647,582.00	556,764.00	
Services	370,324.00	696,219.00	722,828.00	
Supplies & Equipment Transfer Payments	95,150.00 nil	185,066.00	346,936.00	
Transici i aymente			nil	
TOTAL	\$6,560,452.00	\$7,041,167.00	\$7,621,776.00	



WORKLOAD STATISTICS - ONTARIO MUNICIPAL BOARD

Application, Appeals, or Referrals Received by Type	1996 to 97	1996 to 97	1995 to 96	1995 to 96	1994 to 95	1994 to 95
*	#'s	%	#s.	%	#'s	%
1. Assessments	1088**	35.1	2191	48.8	1815	43.9
2. Capital Expenditures	58	1.92	91	2	101	2.4
3. Zoning By-laws	363	12	384	8.6	476	11.5
4. Appeals from Council	141	4.66	173	3.9	195	5
5. Minor Variances	579	19.15	593	13.2	606	14.6
6. Consent Appeals	378	12.5	490	10.9	498	12
7. Official Plans	195	6.45	235	5.2	200	5
8. Plans of Subdivision	66	2.38	88	2	82	2
9. Miscellaneous	116	3.84	104	2.3	112	2.7
10. Land Compensation	28	0.93	41	0.9	27	0.5
11. Consolidated Hearings	1	0.03	5	0.1	5	0.1
12. Development Charges	9***	0.1	93	2.1	16	0.3
TOTAL	3022	100	4488	100	4133	100

* Changes to legislation may have impacted the number of matters received this year.

** ARB office relocation and new computer meant that no appeals were forwarded to OMB for several months. Appeals from ARB started coming in after close of fiscal year. This will bereflected in 1997/98 statistics.

*** Changes proposed in the Development Charges Act resulted in fewer appeals as no new by-laws were passed.

MEMBERS OF THE ONTARIO MUNICIPAL BOARD (As of March 31, 1997)

CHAIR	Date Appointed
COLBOURNE, Douglas S. Vice-Chair Executive Vice-Chair Chair	September 3, 1968 June 1, 1977 November 1, 1993 November 1, 1996
EXECUTIVE VICE-CHAIR	
FISH, Susan	September 26, 1994
Vice-Chair	November 1, 1996
VICE-CHAIRS	
BAINES, Terence F. Q.C.	March 17, 1980
Vice-Chair	October 5, 1989
Retired	April 30, 1996
EGER, Marilyn F.	August 6, 1991
Vice-Chair	September 8, 1994
JOHNSON, Mary Ellen	July 12, 1988
Vice-Chair	August 27, 1992
OWEN, Robert D.M.	January 4, 1983
Vice-Chair	August 27, 1992
SANTO, Diana L.	March 10, 1980
Vice-Chair	June 6, 1991
MEMBERS	
BEACH, Calvin A. BOXMA, Robert COLE, Stanley Retired DELFINO, Angelo EMO, Ronald J. GAGNON, Julie HARRON, Gary A. HEIDENREICH, Barbara KATARY, Narasim M. KING, Wendy E.	March 2, 1992 January 1, 1997 October 8, 1981 July 31, 1996 January 3, 1989 February 5, 1997 September 3, 1991 December 1, 1982 December 2, 1991 August 1, 1989 February 1, 1992

KRUSHELNICKI, Bruce W. LEE, S. Wilson MCLOUGHLIN, Brian W. MELLING, Michael

MILLAR, Claudette M.
MILLS, James R.
O'BRIEN, James L.
ROSENBERG, Morley A., Q.C.
SMITH, Nancy
WATTY, Franklin, W. R.
WHELER, John A., Q.C.
YAO, Ted

PART-TIME MEMBERS

MIDDLETON, Donald W.

August 6, 1991
July 1, 1988
January 1, 1984
December 1, 1993 to
January 31, 1997
May 15, 1989
May 10, 1982
January 1, 1997
January 3, 1983
August 1, 1994
August 1, 1989
September 3, 1974
July 3, 1989

DATE APPOINTED

February 19, 1997







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Ontario Municipal Board

Annual Report



1994-95 and 1995-96

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Ministry of Municipal Affairs and Housing

Office of the Minister

777 Bay Street Toronto ON M5G 2E5 (416) 585-7000 Ministère des Affaires municipales et du Logement

Bureau du ministre

777 rue Bay Toronto ON M5G 2E5 (416) 585-7000



TO THE LIEUTENANT GOVERNOR OF THE PROVINCE OF ONTARIO

MAY IT PLEASE YOUR HONOUR:

For the information of Your Honour and the Legislative Assembly, we have the privilege of presenting the Annual Report of the Ontario Municipal Board for 1994-95 and 1995-96.

Respectfully submitted,

Hon. Al Leach

Minister of Municipal Affairs and Housing





Ontario Municipal Board

Commission des Affaires municipales de l'Ontario Office of the Chairman

Bureau du Président 655 Bay Street Suite 1500 Toronto, Ontario

M5G 1E5

Tel: (416) 326-6800 Fax: (416) 326-5370

TO THE HONOURABLE AL LEACH, MINISTER OF MUNICIPAL AFFAIRS AND HOUSING

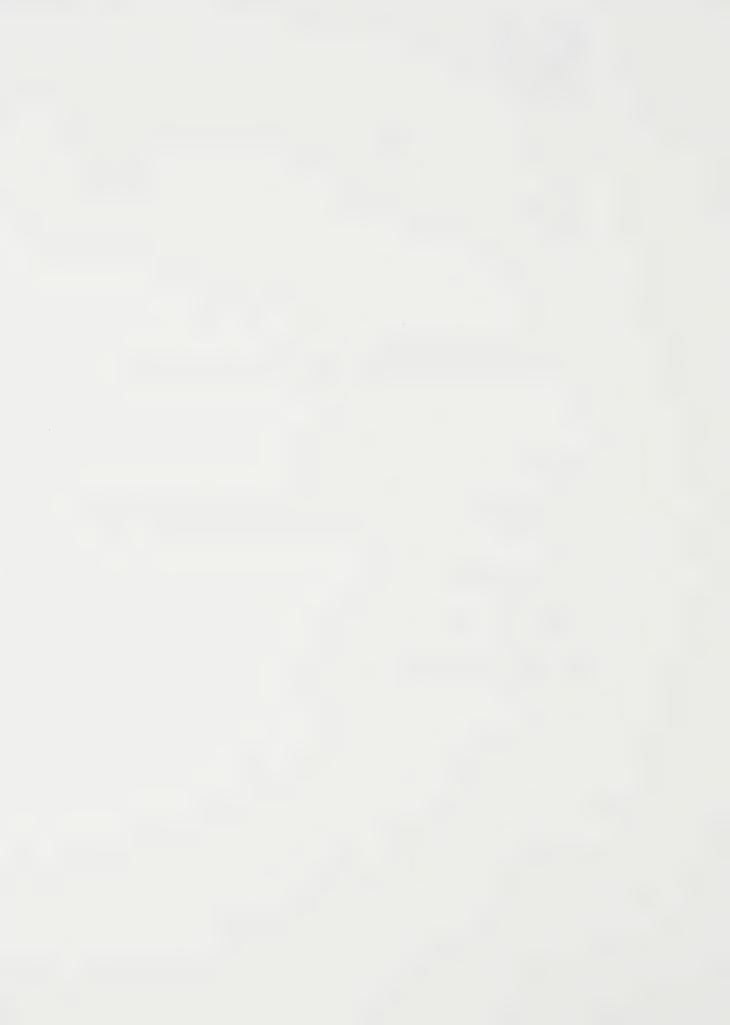
MINISTER:

I have the honour to submit for your approval the Annual Report for 1994-95 and 1995-96 of the Ontario Municipal Board, prepared under the auspices of my predecessor.

Respectfully submitted,

D.S. Colbourne

Chair, Ontario Municipal Board



Purpose

The Ontario Municipal Board (OMB) is an independent, quasi-judicial administrative tribunal. Its principal purpose is to hold public hearings on appeals from decisions made by Ontario municipalities, and to provide decisions or resolutions in all proceedings.

Most appeals to the Board involve disputes over land use planning but a significant number also deal with assessment matters, annexations, land compensation, development charges, ward boundaries, and aggregate resources.

Jurisdiction

The legislative roots of the Ontario Municipal Board can be traced back to 1897, when the Office of the Provincial Municipal Auditor was created to establish rules for proper account-keeping by municipalities. In 1932, the former Ontario Railway and Municipal Board was continued by the Ontario Municipal Board Act in the current form. The powers bestowed upon the Board at that time have been retained to this day.

The Board obtains jurisdiction under approximately 100 public statutes and more than 80 private statutes. However, most of its work arises under the Planning Act and the Assessment Act.

Administration of the Board

On March 6, 1992, the administration of the Ontario Municipal Board Act was transferred to the Ministry of Municipal Affairs by Order-in-Council 44/92. In June 1995, the ministry was merged with the Ministry of Housing to become the Ministry of Municipal Affairs and Housing. This 87th Report of the Ontario Municipal Board covers the fiscal years 1994-95 and 1995-96.

Members of the Board

As of March 31, 1996, Board membership numbered 29 full-time and six part-time (Order-in-Council) appointees. The Board retained three mediators as well. Members and mediators come from a variety of professions: lawyers, planners, engineers, architects, accountants, economists, farmers, environmentalists, teachers, professors, and municipal administrators.

The head office of the Board is in the City of Toronto, but some members live in locations outside Metropolitan Toronto, including Peterborough, Ottawa, Sudbury, Waterloo, Kingston and Bruce County. With roughly 2,000 hearings a year, Board members and mediators travel extensively throughout the province. At present, two Board members are Francophone, and two others are bilingual. Members of the Board during the fiscal years 1994-95 and 1995-96 are listed at the end of this report.

New member orientation and continuing education

The OMB has a formal training program for new members. Initiated six years ago, the program pairs new members with "mentors" — more experienced Board members — at hearings of varying complexity and on various topics. Training includes an orientation program, an introduction to the applicable statutes that members must deal with, and a training checklist that covers such matters as the conduct of hearings, handling motions, proper production of evidence and writing decisions.

The Continuing Education Committee conducts monthly half-day workshops on a variety of topics that relate to the changing circumstances of the Board and the community it serves. Issues include changes in legislation, recent court decisions arguments and evidence. Workshops in the past two years dealt with revisions to the Planning Act, Assessment Act case law, hearings under the Environmental Assessment Act, and the roles and responsibilities of expert witnesses.

New legislation Affecting the OMB

In March of 1995, Bill 163 was proclaimed. It meant major changes to the Planning Act and other legislation affecting municipalities. The act introduced new processes and procedures for planning applications at the provincial and municipal levels. The Board reviewed and adapted its procedures, practices and forms. Further reviews of the Planning Act as a result of the proposed Bill 20 (Land Use Planning and Protection Act) are intended to encourage and facilitate further streamlining of the planning process. It is clear that there will be additional workload for the Board as a result of this new legislation.

Case management — another name for teamwork

The decisions of the Ontario Municipal Board can have major consequences for the people of Ontario. They can also have a considerable impact on our natural environment and on the pace of Ontario's business development.

Access to an efficient dispute resolution process is an extremely important consideration for businesspeople who must be able to plan ahead. It can be a crucial consideration for companies making business decisions about whether they want to locate in Ontario. Greater certainty drives business.

The Ontario Municipal Board, like all other public sector agencies, is finding ways to be efficient and effective in a climate of ever-diminishing resources, including business processes, budget, and our most important product, hearings and decisions.

The OMB is beginning to see the rewards from all the innovations introduced in the past few years. These include the Business Functions Review undertaken in 1992/93, changes in Board procedures, the injection of new analytical capability in the early processing of an appeal, and the recently completed Phase I Case Management pilot project.

At the end of 1995-96, the Board was processing most cases from beginning to end in approximately six to eight months. This is one-third the time needed only four years previously. In the face of major cutbacks and budget reductions, the OMB was able to maintain its effectiveness and to improve its efficiency.

A good example of innovation is in applying analytical capability in the early processing of a case. As recently as four years ago, the Board had only one file process. Most appeals went forward to a full hearing, and the case would travel from one division to the next, in a process that could involve as many as 13 different steps. This was true whether it was a dispute about a neighbour's back porch or a proposal to build a downtown high-rise.

Now the Board first analyses whether a dispute — for example, the one between two neighbours about a back porch — might be directed toward any of the Board's new alternatives to a full hearing: a settlement hearing, mediation, or prehearings to scope the issues. Other methods of avoiding delays are informal and regional centre hearings. While meeting its primary duty of fair and full hearings, the Board has also worked to make procedures more understandable for the public.

Graphically, the model for the OMB strives for is the "inverted telescope": a great many cases coming into the Board, but with few of those cases going to long hearings. When some do, issues are already defined and scoped.

At the end of 1995-96, the key question was whether the Board could maintain the level of service and the momentum in a time of scarce resources. In the following ways the Board was answering that key question in the affirmative:

1. PRACTICE DIRECTIONS

The OMB is continuing to expand its use of practice directions, which guide Board procedures and set rules that ensure the best use of the adjudication process. Twelve practice directions have been issued. These include general rules for prehearing conferences, preparation of exhibits for hearings, an adjournment policy, mediation, awards of costs, and the Board's reconsideration process.

2. TELEPHONE MOTION DAYS

Except when a motion is brought at a hearing, the Board has always required that parties seeking to bring a motion make a request in writing to set a time for the motion to be heard. In 1995 the Board introduced "telephone motion days." Time is now reserved on Wednesday mornings to hear procedural and other motions through telephone conference calls with the parties (except where visual evidence or numerous witnesses must be introduced). Telephone motions are booked through the Board's Hearings Division.

3. TELEPHONE CONFERENCE HEARINGS

The OMB uses telephone conference calls for prehearing conferences and informal hearings, more particularly for cases that have been through the mediation process. These are cost-effective and time-saving for everyone involved. The expense of sending panels, parties and counsel to a distant hearing location is eliminated. Telephone conference hearings are not always suitable for matters of significant public interest, but for cases that involve few parties and few issues, their use will be expanded in the future.

4. MEDIATION

Mediation continues to be a success story. The goal of mediation is to bring parties in a dispute together to see whether they can settle the matter themselves with the guidance of the mediator, before a regular hearing takes place. Mediation and consensus can lead to improved long-term relationships, and future disputes become less difficult to resolve.

Since February 1993 the Board has used mediation for approximately 346 selected cases. One third of these cases were successfully withdrawn; for 30 per cent, issues were narrowed and they went on to shorter hearings; as did 15 per cent "currently awaiting" hearings. Mediation has somewhat reduced hearing time and cost, especially where the issues are reduced and can be resolved by members at telephone hearings or one-hour hearings. The average wait for a hearing of a mediated dispute was reduced to two to three months.

At the beginning of the mediation project, the Board employed two recently retired and long-serving municipal planning commissioners, experts in the substantive areas of planning disputes. They had had many years of experience negotiating with parties and had conducted mediation meetings in more than 204 Ontario municipalities. Many parties and municipalities now request mediation instead of a hearing when they file appeals. The Board's mediation caseload has increased by as much as 50 per cent. At the beginning of the 1995-1996 fiscal year, the Board added a new mediator, a former municipal planning consultant.

The Board provided mediation training to all members, who now conduct many such sessions. Mediation is being expanded to more complex issues and has resulted in the successful resolution of cases with high economic impacts. A recent survey of all stakeholders indicated that 92 per cent believed that mediation is a positive experience. The success of the Board's mediation project has encouraged several municipalities to develop their own mediation programs to settle land use disputes in-house before they reach the OMB. Mediation will become a standard case management tool used by the Board where appropriate.

5. INFORMATION TECHNOLOGY

The 1993 Business Functions Review revealed that much of the Board's administrative work consisted of repetitive, narrowly defined clerical functions. It was clear that automating that work would provide one of the greatest opportunities to increase efficiency and cut costs. The review also concluded that the Board's long-standing mainframe system, the OMBIS (Ontario Municipal Board Information System), would not be useful in its existing form.

In fact it could not produce most statistical reports necessary for management information.

In 1994 the OMB launched a Case Management Information System project, after reviewing the Board's information needs and surveying the existing case management information systems of more than 70 federal and provincial ministries and agencies, including comparable tribunals across Canada. The search indicated that no existing system could be easily or inexpensively adapted for the Board's information needs. The Ministry of Municipal Affairs began to work with the Board to develop a custom-designed system.

Members and staff require a system that will enable them to both administer files and issue decisions, and conduct hearings and produce decisions, efficiently and within budget restraints. Future plans include software that can track files, analyse caseloads and develop timelines that measure and monitor the efficiency of each step in the process. This will provide the kind of information that allows the Chair and management to identify the source of cases and locate backlogs so that resources can be directed to those areas.

The Board's information hardware has already been upgraded and comprehensive training undertaken for all members and staff. This has led to new time-saving features: Board members can, for example, access electronic files when they are offsite, read summaries, review letters that have been issued on a file, write decisions at the end of a hearing, and send them by modem to Toronto, where they are formatted, printed, and issued.

When the system becomes operational, there will be fewer dealings with a file and thus a significant reduction in repetitive work. It will give the Board an enhanced capability to report on case statistics.

6. CASE MANAGEMENT: ASSESSMENT APPEALS

Four years after applying new rules and a case management approach to assessment appeals, the results are extremely promising. Even though the fiscal years 1994-95 and 1995-96 saw an increase in such appeals, there was also an increase in the number of files finalized by the Board during that period.

The goals of the rules are to bring all parties together to deal with a case on a timely basis, and to reduce the amount of time required for a hearing. Thus the new procedures require that the parties set out and respond to a statement of issues, agree when they are ready for a hearing, and a date is then assigned.

Some parties may choose to have their dispute settled through case management. The Board will hold prehearings to deal with preliminary and procedural matters and explore the possibility of settlement. As a result, many of these cases are withdrawn, settled, or result in much shorter hearings.

The Board's statistics indicate that a proactive approach to assessment appeals produces results that are very encouraging - and not only in terms of organizational efficiency. In these difficult economic times, resolution of assessment issues adds certainty to municipalities whose tax bases may be substantially dependent on property tax assessments.

6. CASE MANAGEMENT - THE PHASE 1 PROJECT

The OMB's Case Management Phase 1 Project, begun in Summer 1994 in Eastern Ontario and completed in Spring 1995, was a testing of a new way of doing business at the Board. The project was based on teamwork. It brought together all of the procedural changes recently developed by the Board in a coordinated way and in one geographic area.

The project had definite goals. Prime among them were reducing the total time of handling a case, cutting down on the number of cases going to a full hearing, and reducing the length of the hearings themselves. The overall goal was to improve customer service by producing quality decisions in a reasonable time and at a reasonable cost.

Activities that did not add to the process were dropped and new ways were adopted. For example, two levels of supervision were eliminated, and several separate clerical functions were consolidated. Board members and staff worked together, and the team replaced divisions of work by separate units. The success of this project resulted in the restructuring of the Board administration.

The challenge of the future for the Ontario Municipal Board is to extend the lessons learned to the other regions of the province. As the Board continues to move away from low-value activities which can be done by systems, and into productive analytical work, it will continue to meet the needs of the people of Ontario in still more innovative, effective and efficient ways.

FINANCIAL SUMMARY

Revenue

The Board has adopted under Section 100 of the Ontario Municipal Board Act a tariff which establishes a filing fee in connection with each application, appeal or referral. Revenues collected are reported under Section 99 of the Act as miscellaneous. They include, for example, fees for publications, copies of documents, maps or plans, and all certificates as to the same. The fees collected by the Board are paid to the Minister of Finance.

Fees Collected

APPLICATION APPEAL OR RENEWAL FEES	1995-1996	1994-1995	1993-1994
Capital Expenditures	\$ 15,954.00	\$ 45,679.75	\$135,510.35
Planning Act Matters	253,700.00	259,075.00	282,250.00
Assessment Appeals	230,857.91	11,865.00 **	165,500.00
Miscellaneous	4,741.25	7,986.34	30,233.66
TOTAL	\$505,253.16	\$324,606.09	\$ 613,494.01

^{**\$241,210} assessment fees were collected by the Assessment Review Board and retained by the Ministry of the Attorney General.

Allocation

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of Municipal Affairs and Housing on a fiscal year basis.

ACTUAL EXPENDITURES FOR THE PAST THREE FISCAL YEARS

ACCOUNT ITEM	1995-1996	1994-1995	1993-1994		
Salary & Wages	\$4,914,192.00	\$5,257,897.00	\$5,174,354.00		
Employee Benefits	598,108.00	737,351.00	1,040,182.00		
Transportation & Communications	647,582.00	556,764.00	627,064.00		
Services	696,219.00	722,828.00	641,988.00		
Supplies & Equipment	185,066.00	346,936.00	153,003.00		
Transfer Payments	nil	nil	nil		
TOTAL	\$7,041,167.00	\$7,621,776.00	\$7,636,591.00		

WORKLOAD STATISTICS ONTARIO MUNICIPAL BOARD

Application, Appeals or Referrals Received by Type	1995-96 #'S	1995-96	1994-95 #'S	1994-95	1993-94 #'S	1993-94 %
1. Assessments	2191	48.8	1815	43.9	1335	35.0
2. Capital Expenditures	91	2.0	101	2.4	138	4.0
3. Zoning By-laws	384	8.6	476	11.5	492	13.0
4. Appeals from Council	173	3.9	195	5.0	219	6.0
5. Minor Variances	593	13.2	606	14.6	510	13.0
6. Consent Appeals	490	10.9	498	12.0	504	13.0
7. Official Plans	235	5.2	200	5.0	301	8.0
8. Plans of Subdivision	88	2.0	82	2.0	136	3.0
9. Miscellaneous	104	2.3	112	2.7	149	4.0
10. Land Compensation	41	.9	27	.5	50	1.2
11. Consolidated Hearings	5	.1	5	.1	8	.02
12. Development Charges	93	2.1	16	.3	23	.06
TOTAL	4488	100.0	4133	100.0	3885	100.0

ONTARIO MUNICIPAL BOARD

(As of March 31, 1996)

Date Appointed

CHAIR - COOPER, Helen C.

November 1, 1993

VICE-CHAIRS

BAINES, Terence F. Q.C. COLBOURNE, Douglas S. EGER, Marilyn F. JOHNSON, Mary Ellen OWEN, Robert D.M. SANTO, Diana L.

October 5, 1989 June 1, 1977 September 8, 1994 August 27, 1992 August 27, 1989 June 6, 1991

MEMBERS

BEACH, Calvin A. COLE, Stanley R. DELFINO, Angelo DHAR, Meena FISH, Susan GAGNON-GRAVELLE, Julie HARRON, Gary A. HEIDENREICH, Barbara HEROUX, Gilbert D. KATARY, Narasim M. KING, Wendy E. KRUSHELNICKI, Bruce W. LEE, S. Wilson MCLOUGHLIN, Brian W. MELLING, Michael MILLAR, Claudette M. MILLS, James R. MORRIS, Grant E. ROSENBERG, Morley A., Q.C. SMITH, Nancy WATTY, Franklin W.R. WHELER, John A., Q.C. YAO, Ted

March 2, 1992 October 8, 1981 January 3, 1989 November 30, 1992 September 26, 1994 September 3, 1991 December 1, 1982 December 2, 1991 March 2, 1992 August 1, 1989 February 1, 1992 August 6, 1991 July 1, 1988 January 1, 1984 December 1, 1993 May 15, 1989 May 10, 1982 November 1, 1991 January 3, 1983 August 1, 1994 August 1, 1989 September 3, 1974 July 3, 1989

PART-TIME MEMBERS

BROOKS, Peter M.
CROSSLAND, Ernie F.
EISEN, Robert B.
MIDDLETON, Donald W.
RODMAN, Ward R.
WILKES, Peter G.

PART-TIME MEDIATORS

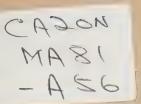
BAILEY, Robert B. THOMSON, William RAYMOND, J. Ross

DATE APPOINTED

December 6, 1991 December 6, 1991 March 14, 1983 March 15, 1994 March 14, 1993 October 5, 1993



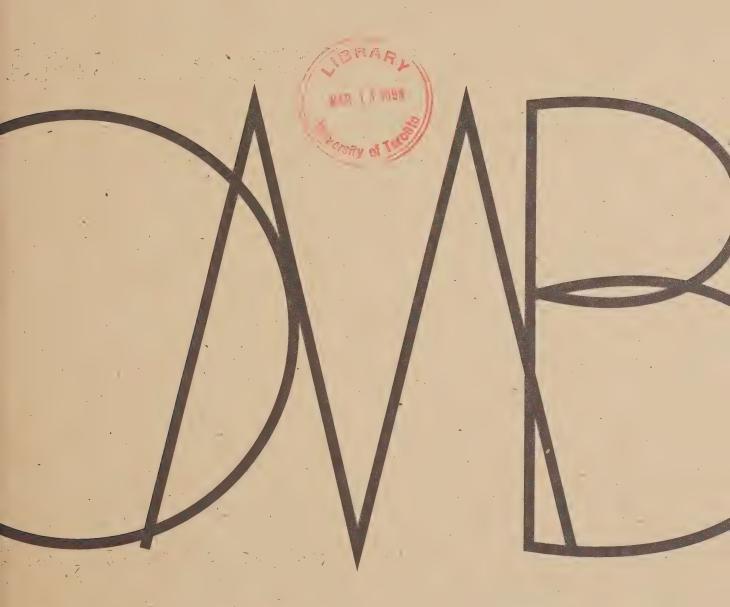




Ontario

OMB

ontario municipal board



Annual Report '92 - '94



Ontario Municipal Board

Commission des affaires municipales de l'Ontario

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The Honourable Ed Philip Minister of Municipal Affairs 777 Bay Street, Toronto, ON M5G 2E5

Dear Sir:

We are pleased to submit to you the annual report of the Ontario Municipal Board for the years 1991-1994.

A copy of this report is being sent to each municipality in Ontario, as well as to other organizations which deal on a regular basis with matters before the Board.

Sincerely,

Chair

Diana Macri

Chief Operating Officer and Board Secretary

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...the Ontario Municipal Board must be accessible and relevant — and yet maintain the distance necessary for objectivity and fairness...

HELEN COOPER

chair of the board



Helen Cooper was appointed Chair of the Ontario Municipal Board in November 1993, after five years as the mayor of Kingston and eight years on Kingston's city council. She is a past president of the Association of Municipalities of Ontario and a member of the Premier's Council on Health and the Ontario Round Table on Environment and Economy. Cooper has a Master's degree in Economics, and has taught in Canada, England, and Tanzania.

This past year has been a true learning process for me. In the past, as a municipal politician, I had not been unfamiliar with the Board. Most of the decisions that are appealed to the Ontario Municipal Board, after all, were originally made by municipal councils. But I believe now that I took a lot for granted and that basically I misunderstood the Board — and as municipal politicians go, I was fairly knowledgable about planning issues.

Today, as Chair of the Board, I'm committed to carrying on the long tradition of the Ontario Municipal Board. At the same time, I think that communicating to the people of this province exactly what the Board is and what it does will be an important part of my job.

One of the great strengths of the Ontario Municipal Board, I've found, is that it brings together people from a broad range of occupations and disciplines. Because we learn from each other, there's no "one way of thinking" here and no tunnel vision.

But of all the new members who are appointed to the Board, municipal council members such as myself may be the hardest to train. Our thought processes, our instincts, are so counter-intuitive to what we must do as Board members.

A municipal politician is expected to form opinions on virtually everything almost instantly, with very little evidence. You've been elected on the basis of your promises and your beliefs, and you make your decisions based on those beliefs.

Instead, as a Board member, you are a receptacle for a great deal of information and evidence, both for and against. You take in the information, analyze it, and then make a decision that is fair and that is seen to be fair.

I also learned that evidence at an OMB hearing is dealt with "de novo": that when a Board member hears evidence in a case, he or she hears it all "anew," as if it had never been heard before. It's a wholly public process, so that everybody is hearing the same thing at the same time that the Board member hears it. When a decision on a case ultimately evolves, there are no surprises and no hidden assumptions or biases.

In fact, at times Board members will hear more evidence than the Planning Board or the City Council that made the original decision that is being appealed. If Board members feel there's a piece of the puzzle missing, they can call in more witnesses or require more information in order to get a clear, balanced picture of both sides of a case.

A clear and balanced picture is important, because the mandate of the Ontario Municipal Board is not only protecting the interests of the parties in the case. The OMB is also the guardian of the public interest. Unlike a civil case in the courts, which is between two parties, one of them ultimately a winner, the other a loser, the OMB is also a protector of the interests of the community — the "watchdog," as one writer put it, "over the rights of citizens, and groups of citizens."

Almost no other province in Canada, in fact, has a tribunal with the same power or breadth of authority as the Ontario Municipal Board, one that can offer justice—and accessible justice.

And that is one of the most interesting questions that I have struggled with during this past year: the whole idea that the Ontario Municipal Board must be accessible and relevant — and yet maintain the distance necessary for objectivity and fairness.

The Ontario Municipal Board must be accessible to the public, to people who are not familiar with our procedures or who may not choose to be represented by legal counsel. And the Board must be relevant — Board members must be conscious of the changing nature of the public interest. The majority of cases that come to the Board have to do with land use, for example, and there's been an evolution in thinking in this country about land — the realization that land, even in Canada, is not an inexhaustible resource and that it must be protected. So that when, as Board members, we look at the use of land, it's not just at how it affects adjacent properties, but also how it will affect all taxpayers in the community and the

generations of people who aren't even born yet.

That's where the public interest component comes in.

At the same time, however, Board members must maintain the distance necessary to achieve fairness. We have to avoid being "in the scrum," so that we are able to view what we hear objectively and independently, to be able to come to a fair decision based on evidence.

This whole question, I think, will be one that will always be with us, one that we must be constantly aware of: striking that difficult balance between relevance and impartiality, between accessibility and independence. Being aware of the issue will help us to cope with it.

From my experience during the past year, however, I think the Ontario Municipal Board has been able to achieve that balance and will continue to achieve it. And that is another great strength of the Board — its reputation for producing fair, well-reasoned decisions.

As we continue to improve our internal processes and make changes that will expedite and streamline our procedures, this reputation is a strength we will build on and a quality we will not lose.

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responsibility The Ontario Municipal Board (OMB) is an independent, quasi-judicial administrative tribunal. Its principal responsibility is to hold public hearings on appeals from decisions made by Ontario municipalities and, once a hearing is concluded, to provide a decision. Most appeals to the Board involve disputes over land use planning. But a significant number also deal with assessment matters, annexations, land compensation, ward boundaries, and objections to municipal proposals for financing capital works.

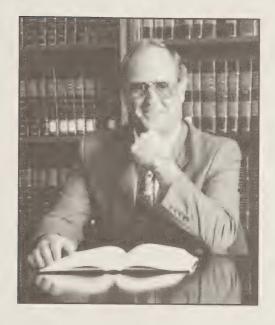
jurisdiction The legislative roots of the Ontario Municipal Board can be traced back to 1897, when the Office of the Provincial Municipal Auditor was created to establish rules for proper account-keeping by municipalities. In 1932, the Ontario Municipal Board Act created the OMB, and the powers bestowed upon the Board at that time have been retained to this day. The Ontario Municipal Board is affected by approximately 100 public statutes and more than 80 private statutes. Most of the Board's work, however, arises under the Planning Act. The OMB also hears many matters under the Assessment Act, the Expropriations Act, and the Local Improvements Act.

members of the board As of March 31, 1994, Board membership numbered 32 full-time and three part-time (Order-in-Council) appointees, including the OMB Chair and six Vice-Chairs. Members come from a variety of professions: lawyers, planners, engineers, architects, accountants, economists, farmers, environmentalists, teachers, professors, and municipal administrators. With roughly 2,000 hearings a year, Board members travel extensively throughout the province to conduct hearings. While the head office of the Board is in the City of Toronto, some members live in locations outside Metropolitan Toronto, including Peterborough, Ottawa, Sudbury, Waterloo, Bruce County, and Kingston. 💥 Each Board member is appointed by the Lieutenant Governor in Council. In December 1992, in order to ensure greater fairness in government appointments to all provincial agencies, boards and commissions, Premier Bob Rae announced a new appointments procedure. An Appointments Secretariat was established to receive and record all applications, and an all-party committee of the Ontario Legislature now scrutinizes selected candidates. An annual advertising campaign advises Ontario residents of the positions that become available. In keeping with the objectives of employment equity, the Board is actively recruiting members who will allow the OMB to reflect more closely the cultural and ethnic mosaic of Ontario. At present, two Board members are francophone, and a third is bilingual. Members of the Board during the fiscal years covered in this report are listed on page 14.

... you make your decisions based on
evidence, not on what's in your own mind
and what your opinions are...

J. R. MILLS

board member



Jim Mills was appointed to the Ontario Municipal Board in 1982. With a background in sales training and management, Mr Mills was instrumental in establishing the new member training program at the Board. He operated his own insurance company for many years before joining the OMB.

It used to be that when you were a new member, you came in, were assigned an office and given a desk and some files ... and that was it. But that's not unusual — of the 84 major public boards and commissions in Ontario, the OMB is one of the few with a comprehensive training program for newly appointed members.

We start with the bare essentials: a three-day orientation program, a tour of the offices, introduction to members and staff, and a new members' "box" which contains everything from pens and pencils to the 120 different acts that we deal with. We have a buddy or mentor system, where a new member is assigned to an experienced member for six months. And we have a "checklist for training," which lists every facet of the job that new members really have to know — from addressing a panel, lawyers, or witnesses during a hearing to proper cross-examinations, swearing in witnesses, dealing with requests for adjournments, and writing decisions.

We deal with so many issues in our work — with assessments, with expropriations, with planning and pits and quarries. One of our best training tools is a video we've produced: it's even comical at times, showing 84 errors you might make as a new member, some of them blatant errors and some of them very subtle . . . forgetting to swear in a witness before cross-examination, for instance, in which case whatever the witness is saying is not evidence, since it's not under oath.

Before we had our training program, it might have taken a new member three or four years to reach the point of understanding that a new member now reaches within a year. But the hardest two things to train new members are, one, that you make your decisions based on evidence, not on what's in your own mind and what your opinions are.

And the second thing you must learn is ... you're not God. Because being a member of the OMB is a very powerful position, and it has to be handled responsibly. What's most important to learn is that you must give a basic, honest opinion based on the evidence, and you must be fair.

... we also have to have a perception of what is fair and a great perception of people, too, because that's why we're here — trying to help people...

MARY ELLEN JOHNSON

vice-chair



A lawyer and former public school trustee, Mary Ellen Johnson earned a planning degree from Queen's University and worked for three Ontario municipalities before she was appointed to the OMB in 1988. Johnson, who became a vice-chair in 1992, heads the Board's continuing education program.

The OMB is a vital, growing, exciting Board, and that means we have to be in touch with the world. What we're trying to do with our continuing education workshops is to bring in various points of view, to sensitize our members to changes in society and changes in thinking. The program varies from philosophical matters — we had a joint program with Jane Jacobs and Ursula Franklin talking about the future of planning, for example — to incredibly practical meat-and-potatoes exercises about environmental law and hearsay evidence.

But everything we do as Board members is really "continuing education," because every day of the week we're experiencing something different, and the issues we have to deal with are multiple — political, environmental, social, economic. One day we're dealing with whether a gravel pit should be permitted on agricultural land; then we go to a hearing about whether a social housing development should go on a particular street; and next to a case where someone's front porch is in the wrong place and we're dealing with personal issues between neighbours who have to live together once the case is over.

The appeals coming to the OMB today have more and more impact on the public, and so as Board members, we have to develop a broad social outlook. But we also have to have a perception of what is fair and a great perception of people, too, because that's why we're here — trying to help people.

new member training

Over the past five years, a committee of Board members has developed a training program in which new members are paired with "mentors" — more experienced Board members — at hearings of varying complexity and on various topics. The new member training includes an orientation program, an introduction to the different acts and statutes that members must deal with, and a basic "training checklist" that covers everything from travel arrangements, the use of computers and dealing with the media to handling motions and oral evidence other than English during hearings.

continuing education

The mandate for the continuing education program for Board members that began in 1991 came from the members themselves, who wished to gain a deeper and wider understanding of the role of the OMB and of the changes going on not only in the courts and the law, but in the community and in planning and development sectors as well.

Nine workshops have been held in the past three years, some of them concentrating on the skills Board members use in their daily work: an all-day joint seminar with the Environmental Assessment Board, for instance, and workshops concerning expert witnesses, hearsay evidence, and dealing with the media. Still other workshops brought in various points of view about the Board and its perceived role from lawyers, planners, community groups, and the media.

administration of the board On March 6, 1992, by Order-in-

Council 44/92, the administration of the Ontario Municipal Board Act was transferred to the Ministry of Municipal Affairs. No annual report was produced by the OMB for the fiscal years 1991-1992 and 1992-1993. This 86th Annual Report of the Ontario Municipal Board is thus presented in a consolidated form for the fiscal years 1991-1994.

increasing responsibilities and limited resources

During the three years covered by this report, it became increasingly clear to everyone involved with the OMB — including the Board's client groups, the Government of Ontario, and the Board itself — that methods would have to be found to reduce the time required to resolve matters brought before the Board.

Because of a steadily growing backlog of cases, during the fiscal year 1991-1992 it usually took from 15 to 18 months from the date of submission of an appeal to the date of hearing. Among the many reasons for the accumulated backlog was the increased volume of cases coming before the Board. And the hearings themselves have also increased in length as the issues being adjudicated become more contentious and more complex. A recent analysis of OMB hearing time, for example, revealed that 50 per cent of the Board's hearing resources were spent on 3 per cent of the cases during the time under study. Some of the more lengthy hearings in recent years involved the Etobicoke waterfront, the Carlingwood shopping mall and the Palladium in Ottawa, Princess Margaret Hospital in Toronto, the regional shopping mall in Woodstock, the Costco development in Brampton, London's Official Plan, and the Barrie store wars.

...every member of the task teams has had an equal voice in the process, and an interaction has taken place that never happened before...

DIANA MACRI

chief operating officer



Appointed Chief Operating Officer and Board Secretary in 1991, Diana Macri is a land use planner by profession, having worked for the private sector and for municipal and provincial government in Ontario. In 1988 and 1989, she was appointed to the Crombie Commission on the Future of the Toronto Waterfront.

There have been tremendous changes here at the Board in the last two or three years, and each one of them — even the smallest administrative change — has contributed to increasing our level of service. There has been a reduction in the Board's case backlog, from 15 to 18 months when I came here three years ago to less than 8 to 10 months today.

Probably the biggest catalyst for change was our recent Business Functions Review. We looked at absolutely every one of our business practices — and a lot of our tried and true conceptions, our strongly held opinions about how we do things, started to fall apart.

But the really energizing change has come out of the Board task forces set up as a result of the Business Functions Review. Five task teams, composed of everyone from vice chairs and Board members right down to caseworkers and clerical staff, have dealt with everything from service delivery to information technology and revenue generation.

Every member of the task teams has had an equal voice in the process, and an interaction has taken place that never happened before... because there had always been a sense of division here at the OMB, a sense of barriers between Board members and the rest of the staff. Holding hearings and making decisions is our fundamental business and Board members do have the most important responsibilities here, but the task team process was the beginning of the realization that everyone must work together, that everyone's work is important, and that teamwork is essential for a successful outcome. As a result, staff members suddenly feel they are no longer "invisible" and that their work is valuable.

The Case Management Phase I project we began in summer 1994 in Eastern Ontario will be a crucial testing of the waters for a new way of doing business here at the OMB. The future may hold the biggest change, in fact, that the Board has ever gone through. The Ontario Municipal Board will retain its integrity and its independence, but at the same time we will increase our level of service dramatically.

An increased level of public awareness and interest in planning matters also means that more and more participants are becoming involved in hearings than in the past. At the same time that longer, more complex hearings have required ever more extensive member resources, there has been no corresponding increase in resources to the Board.

research, training and innovation

Given the economic realities of the 1990s, it is clear that reducing the current backlog of cases before the OMB cannot be done through an increase in member appointments. Instead, in the past three years the Ontario Municipal Board has undergone a process of continual research, change, and innovation in an ongoing effort to streamline procedures and reduce the Board's backlog in a time of limited resources.

As a result of its efforts, the Board was able to increase the public hearings they were able to hold in 1993 by 19 per cent. The elapsed time between an appeal reaching the Board and the date of a hearing has also been reduced, from the earlier 15-18 months to less than 8-10 months today. The ultimate goal is to reduce elapsed time to four months.

In 1992, the OMB commissioned a consultant to carry out a Business Functions Review of Board practices and procedures. As a result of the review, the Board set up internal task forces made up of both members and staff. Their recommendations for developing, refining, and implementing new Board procedures are leading to fundamental changes in the way the Ontario Municipal Board carries out its business.

customer service

In early 1994 the OMB revised "Your Guide to the Ontario Municipal Board," which informs ratepayers and others of the hearing process and what to expect. It also gives details of the requirements for a complete application, since incomplete files account for the greatest percentage of backlogged cases.

Well-informed staff at the OMB offices, located at 655 Bay Street in Toronto, can give prompt, thorough answers to queries from the public, and Board information officers can provide information in both French and English. Further assistance or specific information can be obtained from Board caseworkers.

Case files are available for review to the public. Since a file may be in process or with a Board member at a hearing, the Information Office of the OMB should be contacted before an intended visit to ensure the file is available. Relevant publications, guides, and brochures are also available to the public at the Board's 15th-floor Information Office, as well as a coin-operated photocopier and carrels equipped with electrical outlets.

information technology

The OMB has continued to look at ways of expanding its information technology capabilities. Networked microcomputers have been added to improve communications between different Board sections, enhancing the OMB's ability to respond efficiently to client groups. Laptops have been assigned to Board members for use in preparing decisions.

Board members and staff have access to the resources of the Quicklaw Systems database to assist them in their research. All Board decisions are now being incorporated into the database.

...there is recognition now of the

importance of teamwork and

empowerment...

CINDY ALTY

manager, finance and administration



Cindy Alty joined the staff of the OMB as Adminstrative Officer and Assistant Board Secretary in 1980. Today, as Manager of Finance and Adminstration, she is responsible for the Board's support services, information office, computer services, and the accounts and budgets sections.

There have been many changes in the years I have worked at the Board, but the most notable change is in the dynamics of the Board. There is a recognition now of the importance of teamwork and empowerment. Senior management are involving staff in the steps necessary to bring a case to conclusion.

New procedures have been introduced to streamline these steps. In addition, consideration is being given to the replacement of the Board's seven year-old mainframe tracking system. A new computerized information system will be developed to provide vastly improved case tracking abilities and statistical management information, which will be used to predict and identify bottlenecks and enable resources to be more productively utilized.

In this atmosphere of vibrancy and growth, the continuing challenge will be to maintain the focus on teamwork, responsibility and accountability.

new directions in service In the years from 1991 to 1994, the procedures of the Ontario Municipal Board were the subject of continual study, development, and review. The Board is now in the process of introducing new procedures, alternatives to full public hearings, and new formats for the hearings themselves, always with the goal of improving the effectiveness and the efficiency of the OMB. More specifically, the Board's objectives have been to increase the capabilities of members and staff, so they can do more with less; to eliminate wasted effort and unnecessary delays; and to increase the flexibility and capacity of the Board to respond to new requirements, new issues, and new government priorities. At the same time, the Board's emphasis in developing new hearing options will remain on its traditional role of satisfying natural justice and meeting the public interest.

practice directions

The Ontario Municipal Board continues to expand and review the use of practice directions, which set out expected procedures and practices for OMB hearings. Issued to all parties for cases that are expected to be lengthy and complex, practice directions ensure the most efficient use of the adjudication process. Recent practice directions set out general rules for prehearings and informal hearings, witness statements, preparation of exhibits, service by fax, and adjournments. Regarding adjournments, for example, OMB statistics show that approximately 15 per cent of Board hearing time is lost due to postponing and rescheduling hearings. Thus, Practice Direction No. 6 directs that, in general, adjournments will not be granted unless for extenuating circumstances such as illness of counsel or witnesses.

prehearing conferences

The OMB continues to hold prehearing conferences in advance of a full hearing on matters expected to be complex and lengthy. The prehearings give the Board the chance to identify the parties and the participants, and the degree to which they wish to participate. They also help to identify the issues to be addressed at the hearing. The Board can then establish rules for prefiling documents and setting out the presentation of evidence. The prehearing process has largely met its goal of making complicated hearings better organized, more effective, and shorter.

informal hearings

In January 1992, the OMB held its first series of "settlement hearings," each an hour in length and conducted in a less formal atmosphere than a regular hearing. Out of this exercise came the concept of "short" or "informal" hearings, to include all appeals and applications that are appropriate for this process.

Short hearings are often placed on a "list" of cases from one common geographic area, all scheduled to follow one another on the same day. These are the less complex cases, selected on the basis of the limited number of issues and parties involved. The presiding Board member retains full authority to make a decision on each case, and may discuss the likely result should the matter go on for a full hearing before a different panel of members. With some elements in common with the pretrial process in the courts, the short hearing has proven valuable to parties who are not represented or who may be inexperienced in the planning process.

... I feel now that I can make suggestions with the awareness that something might happen...

SID VALERA

office services clerk



Sid Valera, Office Services Clerk, has worked for the Ontario Municipal Board since 1987. His main responsibility is keeping track of the thousands of case files the Board has worked on, many of them still active.

Automation and computerization have really changed our work here at the Board. For instance, our file room used to be about three times as big as it is now, with rows and rows of stacks. Now the whole process is automated, and when we have to find a file, we don't have to go running up and down aisles to find it. With our new "Lectrievers," we just punch in a number for the file, and it goes to the shelf where the file is.

We've also changed from having index cards where we write down the whereabouts of every file. Now it's all on the computer, and everyone at the Board can use their own computers to find out where the file is — they don't have to go through us to hunt it down.

I think the task team process has been very good. There's a meeting of minds among different people now. Board members and staff sit down together, talk about certain problems, and find solutions. The concerns of the people at the staff level are being given representation, and we in turn are able to learn about new developments at the Board. And as new plans are being made, we at the staff level are able to change our procedures accordingly, instead of finding out about it later. It makes everything work better — for us and for the Board.

In fact, I'm happy that some of my recommendations for making things more efficient have been taken up. I've become very interested in information methods, and I feel now that I can make suggestions with the awareness that something might happen.

I'm convinced that this communication between management and staff should happen more and more — and that it should continue forever!

The aim of the short hearing is to resolve the matter within the one hour allotted. If the parties cannot reach a settlement, or if the Board member does not have sufficient evidence upon which to make a decision, the short hearing may be used to eliminate non-relevant issues and to establish a hearing date on abbreviated notice. Because of the success of the short hearings, the OMB is using this process in all cases where appropriate.

regional centre hearings

In January 1993, the Board conducted the first in a series of "regional centre hearings," commonly referred to as "blitz hearings," and targeted for those areas of the province experiencing a backlog of both planning and assessment appeals. Several Board members conduct a series of hearings over a one- or two-week period in the area, depending on the time required. Cases selected include those that require prehearing conferences, motions, or two days or less of hearing time.

Regional centre hearings allow the Board to consider a greater number of cases in a shorter period of time and provide for quicker scheduling of appeals in backlogged areas of the province. Board members hear cases independently, some of them sitting on panels hearing two- or three-day cases, and others sitting on a "list" of short hearings. This format eliminates the time usually wasted because of adjournments or early conclusions to hearings. It also saves the time and money formerly used in sending members to specific areas of the province on a repeated basis. Given the success of the regional centre hearings in Halton, Hamilton-Wentworth and Niagara, it is expected that blitz hearings will become increasingly common and effective.

mediation

Perhaps the most successful experiment with alternative dispute resolution undertaken by the OMB has been mediation. Since February 1993, the OMB has used mediation for approximately 240 cases. Of these cases, 29 per cent were successfully withdrawn; 21 per cent, with their issues now significantly narrowed, went to shorter hearings; and 28 per cent are currently awaiting shorter hearings. Mediation has also reduced the time it takes for an appeal to be heard: for those cases selected for mediation, the average elapsed time is three months.

The objective of mediation is to bring together parties to a dispute to see whether they can settle the matter themselves, with the guidance of the mediator, without going before the Board for a regular hearing. The mediators employed by the Board, Bob Bailey and Bill Thomson, are recently retired and long-serving municipal planning commissioners who are experts in the substantive areas of disputes brought before the OMB, with many years of experience negotiating among parties in the municipal setting.

Initially, mediation occurred in cases where issues were simple and uncomplicated. But recent cases successfully resolved by mediation have involved large subdivisions, official plan amendments and comprehensive zoning by-laws. Among the high economic impact cases successfully resolved in the Board's experiment with mediation, a potential 1,035 person years of employment has been made available in 1993 and 1994.

assessment appeals

In late 1990, the Board initiated a consultation process to develop new rules and a form of case management for major assessment appeals. The goal was to develop procedures which would allow all parties to deal with an appeal on a timely basis and, whenever possible, to reduce the hearing time required.

OMB

Over the last two years, the Board has instituted case management in many major cases with significant results. A number of major appeals, including a case involving the Toronto bank towers, were disposed of without a hearing. The Board's Practice Directions for Assessment Appeals have been imposed on all major cases since February 1993. The practice direction does not apply to appeals respecting buildings containing fewer than three dwelling units nor to vacant land or farm properties.

Parties in major cases are now required to exchange statements of issues. All cases subject to the practice direction will proceed in the direct hearing stream unless the parties elect to participate in case management. Matters proceeding in the direct hearing stream require that: each of the parties certify that they are ready to proceed; at a minimum the exchange of statements of issues has been completed; discoveries have been completed or waived; and relevant documents and expert reports have been exchanged.

The Board may impose or the parties may elect case management. In these cases the Board will hold a preliminary hearing and a Board member will deal with preliminary and procedural matters and explore the possibility of settlement with the parties.

Experience with this practice direction has been encouraging. Many matters have been withdrawn, settled, or have resulted in shorter hearings.

preparing for the future

case management - PHASE I

Planning and preparation began in January 1994 for a six-month administrative pilot project that will, if successful, transform the way the Ontario Municipal Board carries out its business. "Case Management Phase I" was introduced in June 1994 in a nine-county area of Eastern Ontario that includes Simcoe, Muskoka, and Ottawa-Carleton. Instead of being assigned to cases throughout the province, 20 per cent of OMB Board members and staff will be assigned exclusively to cases in the area, approximately one-fifth of the Board's total case load. They will work as a team to eliminate bottlenecks and delays in the handling of cases.

The results of the pilot project will be monitored throughout the period by means of statistical retrieval programs that will track the reduction of the backlog and the speed of files through the system. If successful, the new system may be applied to the rest of the province.

new legislation affecting the OMB

capital expenditures

Effective January 1, 1993, amendments to the Municipal Act came into force which changed the Board's role in the approval of a number of financial matters related to local government.

Section 65 of the Ontario Municipal Board Act requires the Board to approve all undertakings by municipalities, school boards (other than separate school boards) and local boards that are to be financed by revenues of subsequent years extending beyond the term of the incumbent municipal council or by the issue of debentures. Undertakings to be financed from current funds during the term of the council are excluded.

The amendments made through Bill 165 provided for the Lieutenant Governor in Council to make regulations prescribing debt and financial obligation limits for municipalities. The provisions of Section 65 of the Ontario Municipal Board Act do not apply to any debt, financial obligation or liability defined in the Act, so long as it does not cause the municipality to exceed the limit prescribed. The circumstances under which municipalities must make application to the Board have been drastically reduced.

School boards, other than separate school boards, are still required to obtain the Board's approval.

statutes from which the ontario municipal board derives jurisdiction and authority

Aggregate Resources Act

Assessment Act

Barrie-Innisfil Annexation Act, 1981

Barrie-Vespra Annexation Act, 1984

Beach Protection Act

Cemeteries Act

Conservation Authorities Act

Consolidated Hearings Act

County of Oxford Act

M Development Charges Act

District Municipality of Muskoka Act

District Welfare Administration Boards Act

Education Act

Environmental Assessment Act

Evidence Act

Expropriations Act

Haliburton Act

Homes for the Aged and Rest Homes Act

Housing Development Act

Legal Aid Act

Legislative Assembly Act

Liquor Licence Act

Local Improvement Act

Mining Tax Act

Moosonee Development Area Board Act

Municipal Act

Municipal Affairs Act

Municipal Boundary Negotiations Act, 1981

Municipal Corporations Quieting Orders Act

Municipal Elections Act

Municipal Franchises Act

Municipal Tax Assistance Act

Municipality of Metropolitan Toronto Act

Niagara Escarpment Planning and Development Act

Ontario Education Capital Aid Corporation Act

Ontario Heritage Act

Ontario Highway Transport Board Act

Ontario Municipal Board Act

Ontario Municipal Improvement Corporation Act

Ontario Northland Transportation Commission Act

Ontario Planning and Development Act

Ontario Universities Capital Aid Corporation Act

Ontario Water Resources Act

Ontario Telephone Development Corporation Act

Planning Act

Power Corporation Act

Public Commercial Vehicles Act

Public Libraries Act

Public Service Works on Highway Act

Public Transportation and Highway Improvement Act

Public Utilities Act

Railways Act

Regional Municipality of Durham Act

Regional Municipality of Haldimand-Norfolk Act

Regional Municipality of Halton Act

Regional Municipality of Hamilton-Wentworth Act

Regional Municipality of Niagara Act

Regional Municipality of Ottawa-Carleton Act

Regional Municipality of Peel Act

Regional Municipality of Sudbury Act

Regional Municipality of Waterloo Act

Regional Municipality of York Act

Registry Act

Regulations Act

Rental Housing Protection Act, 1986

X St. Lawrence Parks Commission Act

Shoreline Property Assistance Act

Telephone Act

Territorial Division Act

Tile Drainage Act

Trees Act

Trustee Act

Note: In addition to this list (which may not be complete), there are in excess of 100 private Acts for individual municipalities which confer specific jurisdiction and authority on the Board.

members of the ontario municipal board 1991-1994

members

date of appointment

Helen C. Cooper

Chair

John P. Kruger

Chair

D. S. Colbourne Vice-Chair

Chair (Interim)

T.F. Baines, Q. C.

Vice-Chair

P. G. Wilkes Vice-Chair

D. L. Santo Vice-Chair

P. H. Howden, Q. C.

Vice-Chair

H. H.Lancaster, Q. C.

Vice-Chair

D. H. Mc Robb

Vice-Chair

A. J. L. Chapman, Q. C.

Vice-Chair

November 1, 1993

March 19, 1990 February 28, 1993

September 3, 1968

June 1,1977

March 1, 1993 - October 31, 1993

March 17, 1980 October 5, 1989

January 16, 1978 October 5, 1989

March 10, 1980 June 6, 1991

July 19, 1982 June 6, 1991

Appointed to Ontario Court of Justice,

General Division, May 1992

September 7, 1970

June 30, 1991

Retired April 30, 1992

January 3, 1978

October 22, 1982

Retired September 30, 1991

September 30, 1974

October 5, 1989

Retired January 3, 1992

members

date of appointment

January 4, 1983 R. D. M. Owen August 27, 1992 Vice-Chair

July 12, 1988 M. F. Johnson August 27, 1992 Vice-Chair

January 1, 1974 A. B. Ball

September 3, 1974 J. A. Wheler, Q. C.

October 8, 1981 S. R. Cole

October 8, 1981 D. W. Middleton retired March 14, 1994

May 10, 1982 J. R. Mills

December 1, 1982 G. A. Harron

January 3, 1983 M. A. Rosenberg, Q. C.

March 14, 1983 R. W. Rodman

May 2, 1983 G. I. Thomson, Q. C. Appointed to Ontario Court of Justice,

General Division, July 1992

January 1, 1984 Brian W. McLoughlin

July 1, 1988 S. W. Lee

J. R. Tomlinson September 6, 1988 Transfer July 1992

January 3, 1989 A. Delfino

C. Millar May 15, 1989

July 3, 1989 Ted Yao

August 1, 1989 N. Katary

August 1, 1989 W. R. F. Watty

January 16, 1990 R. Eisen, Q. C.

April 2, 1990 J. Anna Fraser

Resigned April 30, 1992

members

date of appointment

August 6, 1991

B. W. Krushelnicki

M. F. V. Eger August 6, 1991

J. Gagnon-Gravelle September 3, 1991

G. E. Morris November 4, 1991

B. A. Heidenreich December 2, 1991

W. E. King February 1, 1992

C. A. Beach March 2, 1992

G. D. Heroux March 2, 1992

M. Dhar November 30, 1992

M. Melling December 1, 1993

part-time members

P. M. Brooks December 6, 1991

E. F. Crossland December 6, 1991

D. M. Rogers January 23, 1992

January 23, 1993

A. J. L. Chapman March 6, 1992

March 6, 1993

D. W. Middleton March 15, 1994

financial summary

revenue

The Board has adopted, under section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. Revenues collected under section 98 of the Act are reported as Miscellaneous. They include subscriptions to Ontario Municipal Board decisions and publications. The fees collected by the Board are paid to the Minister of Finance.

	1993-1994	1992-1993	1991-1992	
Application, Appeal or Renewal Fees	Fees Collected			
Capital Expenditures	\$135,510.35	\$ 506,268.25	\$ 684,382.95	
Planning Act Matters	282,250.00	309,000.00	359,605.93	
Assessment Appeals	166,255.00	157,390.00	207,785.00	
Miscellaneous	30,233.66	30,061.08	26,712.75	
TOTAL	\$614,249.01	\$1,002,719.33	\$1,278,486.63	

allocation

The <u>budget</u> of the Ontario Municipal Board is provided within the estimates of the Ministry of the Municipal Affairs on a fiscal year basis.

Account Item	1993-1994	1992-1993	1991-1992
Salary & Wages	\$5,522,000.00	\$5,882,100.00	\$5,116,900.00
Employee Benefits	1,036,600.00	1,065,200.00	925,800.00
Transportation & Communications	691,100.00	730,300.00	730,700.00
Services	715,200.00	705,200.00	476,700.00
Supplies & Equipment	170,100.00	229,600.00	285,400.00
Transfer Payments	*	10,000.00	10,000.00
TOTAL allocation	\$8,135,000.00	\$8,622,400.00	\$7,545,500.00

^{*}Amalgamated With Services

workload statistics

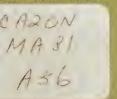
Applications, Appeals or Referrals Received By Type		1991-92		1992-93		1993-94	
		#'s	(%)	#'s	(%)	#'s	(%)
1.	Assessment Appeals	929	17.2	985	21.6	1355	35.0
2.	Capital Expenditures of Municipalities & School Boards	1664	30.4	1004	22.0	138	4.0
3.	Zoning Bylaw Appeals/Approvals	680	12.6	530	11.6	492	13.0
4.	Appeals from Council's Refusal to amend Zoning Bylaws	250	4.6	224	4.9	219	6.0
5.	Minor Variance Appeals	629	11.7	649	14.2	510	13.0
6.	Consent Appeals	712	13.2	552	12.1	504	13.0
7.	Official Plans	227	4.2	279	6.1	301	8.0
8.	Plans of Subdivision	51	0.9	101	2.2	136	3.0
9.	Miscellaneous	132	2.4	135	3.0	149	4.0
10.	Land Compensation	43	0.8	53	1.2	50	1.2
11.	Consolidated Hearings	16	0.3	3	0.1	8	.02
12.	Development Charges	84	1.6	48	1.1	23	.06
	TOTAL	5397	100.0	4563	100.0	3885	100.0



.









Ontario Municipal Board

85th ANNUAL REPORT

April 1, 1990 to March 31, 1991

John P. Kruger Chairman

B. Cindy Alty Assistant Board Secretary and Manager, Finance and Administration



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	pouvez obtenir le présent ment en vous addressant au:	
Com 180 i	au des Renseignements nission des affaires municipale de l'Ontario ue Dundas Ouest to, Ontario 1E5	
Téléf Fax:	1E5 one: 416-598-2266 416-979-8808	

Additional copies of this publication are available from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, M7A 1N8, Telephone (416) 965-2054 and the Information Office, Ontario Municipal Board, 180 Dundas Street West, Toronto, Ontario, M5G 1E5, Telephone (416) 598-2266, Fax (416) 979-8808.

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Ontario Municipal Board Tel. 416/598-2266 Fax 416/979-8808

180 Dundas St. West Toronto, Ontario M5G 1E5

June 28, 1991

The Honourable Howard Hampton Attorney General Ministry of the Attorney General 720 Bay Street, 11th Floor Toronto, Ontario

Dear Sir:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1990-91 fiscal year.

A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, school boards and universities. It is available in English and French.

John P. Kruger Chairman B. Cindy Alty
Assistant Board Secretary
and Manager, Finance and
Administration

JURISDICTION AND RESPONSIBILITY

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act enacted in 1906 and the Bureau of Municipal Affairs Act, enacted in 1917, and incorporated many of the provisions and powers of those Acts. Most of the powers bestowed upon the Board in 1932 have been retained to this date.

The Ontario Municipal Board functions to determine applications, referrals and appeals made under the provisions of various statutes, most notably the Planning, Municipal, Expropriations, Assessment and Consolidated Hearings Acts. A list of some of the statutes which confer jurisdiction or authority on the Board is given in Chart A. Board Members travel extensively throughout the province to conduct hearings and adjudicate in these matters.

MEMBERS OF THE BOARD

As of March 31, 1991, there were 30 Members of the Board, including the Chairman and six Vice-Chairpersons. Members of the Board during the 1990-1991 fiscal year are listed on Chart B. Each is appointed by the Lieutenant-Governor-in-Council and serves on a full-time basis. The head office of the Board is located in the City of Toronto but some members live in areas outside of Metropolitan Toronto.

The membership of the Board reflects a variety of professions:— accountants, engineers, architects, planners, municipal administrators and lawyers. However, approximately half of the Members are lawyers.

The Board wishes to acknowledge the significant contribution of Klaus D. Bindhardt who retired December 31, 1990. Mr. Bindhardt, an architect, was a Member of the Board for 14 years.

On April 2, 1990, the Board welcomed as a Member, J. Anna Fraser. During her years in private practise, Ms. Fraser, a lawyer and a planner, specialized in municipal and assessment law.

In keeping with the objective to better reflect the cultural and ethnic mosaic of Ontario, the Board is actively recruiting from the employment equity target groups.

CONSULTANTS' STUDY

In August of 1990, Coopers and Lybrand was engaged under a competitive bid to prepare a comprehensive report on the Board's operations. The consultants made recommendations which stressed the need to increase staff complement in the areas of operational support for the planning and processing divisions, more legal support within the staff structure, as well as support for Members. The consultants were critical of the case management system, the lack of staff in some areas and emphasized the need to improve the Board's computer support systems as well as office technologies.

As a result, the Board requested funding from the Government for a phased implementation of the consultants' report. Unfortunately, due to general constraints, funds have not been provided to permit the desired level of service. Therefore, needed improvements on the scale recommended by both the Board and the consultants are not possible at this time and only incremental improvements can be implemented.

In this regard, an attempt is being made to streamline the rules, procedures and administration of the Board's activities. While this will not materially decrease the existing 13-month wait for a hearing, the objective is to contain the growth in the backlog by doing what is possible in an innovative way with the tools available to the Board.

CONSULTANTS (continued)

Wide consultation is an important part of this process. The Board will be undertaking a consultative process with its clients, including members of the municipal bar, Association of Municipalities of Ontario and other similar municipal organizations, as well as selected advocacy groups who regularly appear before the Board. The Board has also conferred with Ministries such as Environment, Municipal Affairs and Natural Resources and also consults regularly with the Environmental Assessment Board as the Members of the two Boards frequently sit as a joint board.

THE BOARD

ADMINISTRATION OF In order to fulfill its mandate and achieve an acceptable level of service delivery in accordance with the priorities and goals of the Government, the Ontario Municipal Board must address its case backlog. The development of new policies and procedures in support of a case management system are underway. The Board is also expanding its policy and research capabilities.

The Board's employee complement of 54 remained unchanged.

In August 1990, James G. Malcolm, Secretary and Chief Adminstrative Officer since February 1986, accepted a new position with the Ministry of Financial Institutions, Ontario Insurance Commission, where he is the Executive Co-ordinator/Registrar.

During the year, James Irvine, formerly Executive Assistant to the Deputy Attorney General, was seconded to assist the Board with the implementation of the initiatives outlined above.

In April 1990, the Board retained Gillian Burton as general legal counsel to assist with the legal aspects of its administrative responsibilities. Duties involve advising on legal issues, assisting at prehearing conferences, legal research and the development of revisions to the Board's rules and procedures, which might be acceptable to the Board.

It deserves note that the average hearing time for appeals is increasing and hearings are becoming more complex. The declared provincial interest and policy statement provisions now contained in the Planning Act generate public awareness and generally increase the contentiousness of hearings requiring more hearing days to be set aside and more than one Member scheduled to hear the matter.

As will be seen from an analysis of the workload data included in this report, the level of appeal applications remains relatively constant despite the fact the Board is scheduling and holding more hearings than in the previous period.

The increase in affordable housing applications as well as those of group homes not only strains the Board's resources, but increases the sensitive nature of the evidence upon which the Board must adjudicate in the communities affected. Public interest groups ratepayer groups and private citizens are becoming more and more attuned to the significance of certain Board hearings and the expanding awareness and participation of these groups often results in protracted hearings. In particular, although the Board has long addressed these issues in its deliberations, environmental, transportation, affordable housing and waste disposal matters are gaining greater public attention, resulting in more appearances by interest groups and extended hearing times. This emerging public awareness, combined with no increase in Board membership will further influence the Board's backlog problems.

The Organization Chart of the Board is given in Chart C.

INFORMATION OFFICE

Assistance or information may be obtained from the Board's Information Office.

Staff are well informed and can give prompt, thorough answers to queries in both French and English. Some examples of inquiries received from the public, whether by telephone, across the counter, or in writing, include:

- appeal procedures
- application fees
- hearing dates
- status of applications
- requests to view files and exhibits, copies of Board decisions and orders and release of exhibits

In addition to being a key source of information, this office provides a coinoperated photocopier, carrels equipped with electrical outlets, guides, publications and brochures.

DEVELOPMENT CHARGES ACT

The Development Charges Act permits municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. It not only addresses the need for hard services, but also provides for off-site soft services such as added police and fire protection.

The provisions of the Development Charges Act require municipalities to bring their lot levy policies into conformity with the requirements of the Act by November 23, 1991. The legislation provides for several types of appeals to the Ontario Municipal Board by those on whom these levies have been imposed.

As of March 31, 1991, the Board received appeals filed under the provisions of subsection 4(4) of the Act with respect to development charge by-laws enacted by four municipalities. It also received an appeal pursuant to subsection 8(6) of the Act with respect to one of these by-laws.

To this date, very few municipalities have passed the appropriate by-law and the real impact of the appeal workload from this source has not yet been felt.

COMBINED DECISION AND ORDER

As anticipated in the 84th Annual Report, the Board has now adopted the practice, wherever possible, of issuing one document comprising the Decision and Order of the Board. This procedure has been in effect since August of 1990 and has resulted in a saving of time and effort on behalf of the Board's staff in that it eliminates the preparation and issue of a second document on most of our hearing files.

While some decisions still issue with directions requiring the fulfilment of conditions or the submission of further documents prior to order issue, the majority of our hearing files can be closed on issue of a combined Decision and Order of the Board. An exception is the approval of draft plans of subdivision. Here, as in the past, the order does not issue until all conditions imposed have been cleared. The Board's order of approval issues upon submission of the final plan.

PRACTICE DIRECTION

The Board expanded the use of its Practice Direction. This is issued along with the Appointment for Hearing on those hearings anticipated to be lengthy or complex. The Practice Direction requires those parties who intend to call expert witnesses to file with all known parties and with the Board, a report or memorandum which sets out the witnesses' qualifications and the substance of the evidence proposed to be given. These materials are required to be filed ten days prior to the scheduled start of the hearing.

PREHEARING CONFERENCES

The Board is increasingly holding prehearing conferences in advance of the full hearing of matters expected to be both complex and lengthy. The prehearing procedure affords the Board the opportunity to identify the parties and participants, and the degree to which they wish to participate, as well as to provide for the identification of issues to be addressed at the hearing. The Board is then in a position to establish rules for the prefiling of documents and to set out the order of presentation of evidence. The prehearing process permits participants to have a better understanding of the issues to be raised or addressed by others, and has proven to be of assistance to all participants in the organization of the hearing agenda.

THE FUTURE

The Board is determined to do all in its power to reduce the level of the backlog. Appeal activity is generally one year following the onset of a recession and, in theory, we should now be seeing a decrease in Members' workload. The fact that this is not happening is due to three factors: consent and variance applications remain strong, joint board matters and official plan amendments are becoming more complex and more hearings are requiring at least two-Member panels.

This, combined with the imminent retirement of several long-serving Members, fiscal constraints, and the need to revise practices and procedures, represents an on-going and significant challenge.

WORKLOAD

REFERRAL RECEIVED BY THE O.M.B.	1990-91	1989-90	1988-89
Assessment Appeals	719	731	886
2. Capital Expenditures of			
Municipalities and School Boards	1521	1474	1541
3. Zoning By-law Appeals/Approvals	694	749	761
4. Appeals from Council's Refusal			
to Amend Zoning By-laws	287	270	257
5. Minor Variance Appeals	842	883	820
6. Consent Appeals	1080	1157	848
7. Official Plans	184	207	242
8. Plans of Subdivision	75	80	87
9. Miscellaneous	135	158	140
10. Land Compensation	53	31	37
11. Consolidated Hearings	10	15	17
TOTAL	5600	5755	5636

HEARINGS

The Hearings Division scheduled 2593 hearings involving 4091 files during the 1990-1991 fiscal year.

The number of actual hearings held was 1962 involving 3146 files. The following chart provides information on the type of hearings over the last two fiscal years:

	HEARINGS SCHEDULED		HEARINGS HELD		NUMBER OF FILES			HEARD
	1989-90	1990-91	1989-90	1990-91	1989-90	1990-91	1989-90	1990-91
Planning & Municipal	1988	2036	1557	1574	3016	3141	2404	2473
Assessment Appeals	510	506	330	358	842	896	542	642
Land Compensation	32	37	15	20	42	39	15	20
Consolidated Hearings	12	14	10	10	15	15	13	11
TOTAL	2552	2593	1912	1962	3915	4091	2974	3146

It should be noted that the difference between 2593 hearings scheduled and the 1962 actually held, represents 631 adjournments and withdrawals. If the Board is advised of an adjournment or withdrawal less than 30 days before the start of the hearing, it is possible the Board will not be able to schedule another hearing in time to utilize that Member. As a result, the Board requests that all adjournments or withdrawals be communicated to the Board's Hearings Division as soon as possible prior to the hearing.

FINANCIAL SUMMARY

REVENUE:

The Board has adopted, under section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. Revenues collected under section 98 of the Act are reported as Miscellaneous. They include subscriptions to Ontario Municipal Board decisions, publications and photocopying charges. The fees collected by the Board are paid to the Treasurer of Ontario.

Application, Appeal or Referral Type				
Capital Expenditures	\$	636,822.50	\$	609,115.75
Planning Act Matters	\$	413,575.00	\$	391,725.00
Asessment Appeals	\$	137,530.00	\$	126,970.00
Miscellaneous	\$	28,601.55	\$	29,468.64
TOTAL	\$ -	1,216,529.05	\$ 1	1,157,279.39

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

Account Item	1988-89	1990-91
Salary & Wages	\$4,316,000.00	\$4,569,900.00
Employee Benefits	\$ 650,500.00	\$ 830,200.00
Transportation & Communications	\$ 472,200.00	\$ 431,500.00
Services	\$ 201,000.00	\$ 205,700.00
Supplies & Equipment	\$ 97,200.00	\$ 164,300.00
Transfer Payments	\$ 10,000.00	\$ 10,000.00
TOTAL EXPENDITURES	\$5,746,900.00	\$6,211,600.00

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

```
Aggregate Resources Act
    Assessment Act
        Barrie-Innisfil Annexation Act, 1981
             Barrie-Vespra Annexation Act, 1984
                 Beach Protection Act
                     Cemeteries Act
                          Commercial Concentration Tax Act
                              Conservation Authorities Act
                                  Consolidated Hearings Act
                                       County of Oxford Act
                                           Development Charges Act
                                               District Municipality of Muskoka Act
                                                   District Welfare Administration Boards Act
                                                       Education Act
                                                            Environmental Assessment Act
                                                                Evidence Act
                                                                    Expropriations Act
                                                                         Haliburton Act
                                                                             Homes for the Aged and Rest Homes Act
                                                                                 Housing Development Act
                                                                                     Legal Aid Act
                                                                                          Legislative Assembly Act
                                                                                      Liquor Licence Act
                                                                                 Local Improvement Act
                                                                             Mining Tax Act
                                                                         Moosonee Development Area Board Act
                                                                     Municipal Act
                                                                Municipal Affairs Act
                                                            Municipal Boundary Negotiations Act, 1981
                                                        Municipal Corporations Quieting Orders Act
                                                    Municipal Elections Act
                                               Municipal Franchises Act
                                           Municipal Tax Assistance Act
                                       Municipality of Metropolitan Toronto Act
                                   Niagara Escarpment Planning and Development Act
                              Ontario Education Capital Aid Corporation Act
                          Ontario Heritage Act
                      Ontario Highway Transport Board Act
                  Ontario Municipal Board Act
             Ontario Municipal Improvement Corporation Act
         Ontario Northland Transportation Commission Act
     Ontario Planning and Development Act
 Ontario Universities Capital Aid Corporation Act
     Ontario Water Resourses Act
         Ontario Telephone Development Corporation Act
              Planning Act
                  Power Corporation Act
                      Public Commerical Vehicles Act
                           Public Libraries Act
                               Public Service Works on Highway Act
                                   Public Transportation and Highway Improvement Act
                                       Public Utilities Act
                                            Railways Act
                                                Regional Municipality of Durham Act
                                                    Regional Municipality of Haldimand-Norfolk Act
                                                        Regional Municipality of Halton Act
                                                             Regional Municipality of Hamilton-Wentworth Act
                                                                 Regional Municipality of Niagara Act
                                                                     Regional Municipality of Ottawa-Carleton Act
                                                                          Regional Municipality of Peel Act
                                                                              Regional Municipality of Sudbury Act
                                                                                  Regional Municipality of Waterloo Act
                                                                                       Regional Municipality of York Act
                                                                                           Registry Act
                                                                                       Regulations Act
                                                                                  Rental Housing Protection Act, 1986
                                                                              St. Lawrence Parks Commission Act
                                                                          Shoreline Property Assistance Act
                                                                     Telephone Act
                                                                 Territorial Division Act
                                                             Tile Drainage Act
                                                         Trees Act
```

Trustee Act

MEMBERS OF THE ONTARIO MUNICIPAL BOARD 1990-91

Members

John P. Kruger Chairman

D.S. Colbourne Vice-Chairman

H.H. Lancaster, Q.C. Vice-Chairman
D.H. McRobb

Vice-Chairman T.F. Baines, Q.C. Vice-Chairman

A.J.L. Chapman, Q.C. Vice-Chairman

P.G. Wilkes Vice-Chairman

A. B. Ball J.A. Wheler, Q.C. K.D. Bindhardt

D.L. Santo S.R. Cole D.W. Middleton J.R. Mills P.H. Howden, Q.C. G.A. Harron M.A. Rosenberg, Q.C. R.D.M. Owen

R.D.M. Owen R.W. Rodman G.I. Thomson, Q.C. Brian W. McLoughlin M.E. Johnson S.W. Lee J.R. Tomlinson

C. Millar Ted Yao N. Katary W.R.F. Watty R. Eisen, Q.C. J. Anna Fraser

A. Delfino

Date of Appointment

March 19, 1990

September 3, 1968 June 1, 1977

September 7, 1970 June 30, 1981

January 3, 1978 October 22, 1982 March 17, 1980 October 5, 1989

September 30, 1974 October 5, 1989

October 5, 1989 January 1, 1974 September 3, 1974 January 2, 1976

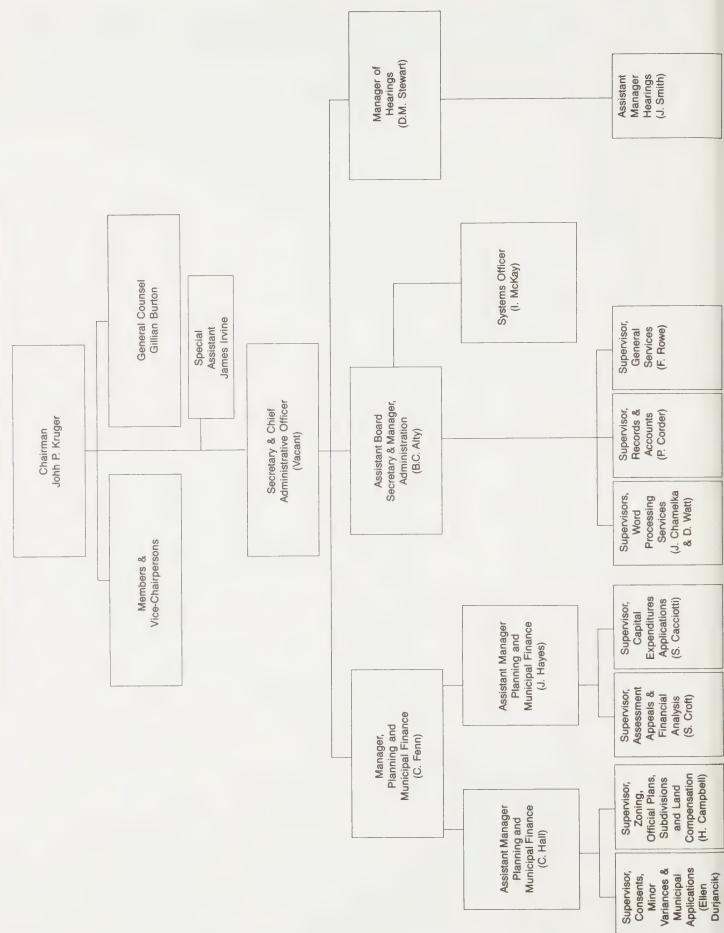
January 16, 1978

Retired December 31, 1990

March 10, 1980 October 8, 1981 October 8, 1981 May 10, 1982 July 19, 1982 December 1, 1982 January 3, 1983 January 4, 1983 March 14, 1983 May 2, 1983 January 1, 1984 July 12, 1988 July 1, 1988 September 6, 1988 January 3, 1989 May 15, 1989 July 3, 1989

August 1, 1989 August 1, 1989 January 16, 1990 April 2, 1990

ORGANIZATION CHART OF THE ONTARIO MUNICIPAL BOARD







Ontario Municipa Board Tel: 416-598-2266

Fax 416-979-8808

180 Dundas St. West Toronto, Ontario M5G 1E5 CA20N MA81 A56



Ontario Municipa Board

84th ANNUAL REPORT

April 1, 1989 to March 31, 1990

John P. Kruger Chairman

J.G. Malcolm Secretary and Chief Administrative Officer



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Bureau des Renseignements Commission des affaires municipale de l'Ontario 180 rue Dundas Ouest Toronto, Ontario M5G 1E5

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Ontario Municipal Board

Tel. 416/598-2266 Fax 416/979-8808 180 Dundas St. West Toronto, Ontario M5G 1E5

The Honourable Ian G. Scott, Q.C. Attorney General Ministry of the Attorney General 720 Bay Street, 11th Floor Toronto, Ontario

Dear Sir:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1989-90 fiscal year.

A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, school boards and universities. It is available in English and French.

John P. Kruger Chairman J. G. Malcolm Secretary and Chief Administrative Officer

JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act enacted in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts. Most of the powers bestowed upon the Board in 1932 have been retained to this date. In addition, many other statutes have assigned jurisdiction or authority to the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisdiction or authority on the Board is given in Chart A. Many of those listed result in infrequent applications or appeals.

MEMBERS OF THE BOARD

As of March 31, 1990, there were 30 Members of the Board, including the Chairman and six Vice-Chairmen. Members of the Board during the 1989-1990 fiscal year are listed on Chart B. Each is appointed by the Lieutenant-Governor-in-Council and serve on a full-time basis. They are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions: — accountants, engineers, architects, planners, municipal administrators and lawyers.

The Board wishes to acknowledge the contributions of Henry E. Stewart, Peter M. Brooks, Q.C., Colin G. Charron, Q.C., Ernest F. Crossland and George M. Hobart, all of whom retired during 1989/90.

The retirement of Mr. Stewart at the end of this fiscal year was a great loss to the Board. A Member since April 1, 1974, Mr. Stewart was appointed to the position of Chairman on September 1, 1979.

Mr. Brooks, a Member of the Board for almost sixteen years, and a Vice-Chairman for seven, retired April 30, 1989.

Mr. Charron, a Member of the Board for fifteen years, retired March 31, 1990.

Mr. Crossland, a Member of the Board for more than seven years, retired January 31, 1990.

Mr. Hobart, a Member of the Board for almost eight years, retired July 31, 1989.

The Board welcomed five new Members during this past fiscal year. They are Claudette Millar, Ted Yao, Narasim Katary, Frank Watty and Robert Eisen.

Ms Miller joined the Board on May 15, 1989. Previously Mayor of the City of Cambridge, where she served for several terms, she brings to the Board many years' experience in regional and municipal governments.

Ted Yao joined the Board on July 3, 1989. He has held the position of solicitor with the cities of Toronto, Mississauga, and Oshawa and was an Urban Planner with the National Capital Commission, Ottawa.

Narasim Katary joined the Board on August 1, 1989. He was a Long Range Planner with the Regional Municipality of Sudbury prior to joining the Board.

MEMBERS (Continued)

Frank Watty joined the Board on August 1, 1989. Prior to his appointment, he was the Director of Planning with the Regional Municipality of Waterloo.

Robert Eisen joined the Board on January 16, 1990. He was previously a Vice-Chairman serving with the Environmental Assessment Board of Ontario.

In March of 1989 the Board welcomed a new Chairman, John P. Kruger. Mr. Kruger's association with Provincial and Municipal governments spans many years. He has held the position of Chairman of the Ontario Automobile Insurance Board; Chairman of the Pension Commission of Ontario; Special Advisor to Premier David Peterson; Chief Administrative Officer of the Municipality of Metropolitan Toronto; Executive Director, Metropolitan Chairman's Office; and Executive Assistant to the Metropolitan Chairman. Prior to entering the public service he held senior executive positions in the private sector.

THE BOARD

ADMINISTRATION OF The Board's employee complement to March 31, 1990, increased slightly over last year, due to the hiring of a number of contract employees in the last quarter of 1989/90 to assist with a backlog of applications at the processing level. Staff provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings and the preparation of Board orders and decisions.

REVIEW OF BOARD'S OPERATIONS

A firm of management consultants was recently hired to review and make recommendations on all aspects of Board, staff and case management processes. In addition, the procedure for hearings involving larger and more complex matters is being revised and other changes will be introduced in the 1990/91 fiscal period to speed up the hearing process.

WORKLOAD

The Board experienced a further increase in its workload to the end of fiscal year 1989/90. A statistical comparison follows:

	E OF APPLICATION, APPEAL OR ERRAL RECEIVED BY THE O.M.B.	1989-90	1988-89	1987-88
1.	Assessment Appeals	731	886	1071
2.	Capital Expenditures of Municipalities and School Boards Zoning By-law Appeals/Approvals	1474 749	1541 761	1506 628
4.	Appeals from Councils' Refusal to Amend Zoning By-laws	270	257	188
5.	Minor Variance Appeals	883	820	715
6.	Consent Appeals	1157	848	665
7.	Official Plans	207	242	150
8.	Plans of Subdivision	80	87	50
9.	Miscellaneous	158	140	137
10.	Land Compensation	31	37	23
11.	Consolidated Hearings	15_	17	2
	TOTAL	5755	5636	5135

NEW LEGISLATION

The passing of a number of new pieces of legislation which came into effect during this period, will also impact on the Board's workload. These are:

<u>BILL 90</u> On December 19, 1989, Bill 90, an Act to amend the Municipal Act and certain other acts related to municipalities, received Royal Assent. Amongst other amendments, this Bill deletes the requirement for Board approval of the rates imposed or proposed to be imposed to recover the capital cost of sewage and water works under Section 218 of the Municipal Act.

Bill 90 also deletes the requirement for Board approval of by-laws passed by Regional Municipalities to designate, expand or alter urban service areas.

BILL 170 Bill 170 (Aggregate Resources Act, 1989), received Royal Assent on June 20, 1989. It repealed the Pits and Quarries Control Act, Chapter 378, R.S.O. 1980 and the Pits and Quarries Control Amendment Act, 1988, Chapter 55. This Bill also made amendments to several other acts related to aggregate resources.

As of July 1, 1990, all applicants for pit and quarry licenses must provide additional documentation to meet the new procedural requirements. Parties who had applications before the Board were notified of the new requirements stipulated in the act and were advised that if this information was not made available at the time of the hearing, the Board could adjourn the matter if it was determined that it was necessary in order to fully evaluate the application.

BILL 31 Bill 31, which received Royal Assent on October 16, 1989, made changes to the Cemetaries Act. Section 5 of Bill 31 gives the Board the new responsibility of jurisdiction over appeals from a municipality's decision regarding requests for approval to establish or enlarge a cemetary or crematorium.

BILL 211 Bill 211, an Act to revise the Rental Housing Protection Act, 1986, received Royal Assent on June 29, 1989. This Bill deletes the provision for a petition to Cabinet from a decision of the Ontario Municipal Board. Bill 211 also amends the definition of "person" to include an unincorporated association.

Unlike the previous legislation, Bill 211 does not contain a date on which the provisions of same will cease to be in effect.

BILL 46 Bill 46, an Act to establish a Commercial Concentration Tax received Royal Assent on December 19, 1989. This Act establishes that large commercial structures and commercial parking lots within the Greater Toronto Area be subject to a commercial concentration tax.

This Act is applicable for the taxation year commencing January 1, 1990.

Section 11 of the Commercial Concentration Tax Act, 1989 allows an appeal to the Board from a decision of the Assessment Review Board.

BILL 20 On November 23, 1989, Bill 20 an Act to provide for the payment of Development Charges received Royal Assent. The title of this Act is the Development Charges Act, 1989.

The Development Charges Act permits municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. It not only addresses the need for hard services, but also provides for offsite soft services such as added police and fire protection. Municipalities have two years to bring their lot levy policies into conformity with the requirements of the Act. The legislation provides for an appeal to the Ontario Municipal Board by those on whom this levy has been imposed.

ASSESSMENTS

The past year has seen the resolution of many long outstanding matters in the Board's Assessment Appeals Division which were held pending the resolution of certain legal issues. A number of large multi-property appeals were and are in the process of being finalized namely: Brewers Warehousing Company Limited and Bell Canada.

As expected this year has seen the resolution of many of the outstanding complaints affecting condominiums across the province. Approximately 20,000 of the 35,000 outstanding complaints affecting condominiums have been or are to be resolved.

COMBINED DECISIONS AND ORDERS

In continuing its efforts to streamline its procedures and to provide a more efficient and expeditious service to its client groups, the Board will adopt a new procedure with respect to the release of decisions and orders. Where possible, the Board will combine the decision and the order into one document.

Currently, decisions issue separate from and prior to the Board's order. If a favourable decision is rendered, the client cannot proceed until a formal Board order is available. This procedure will eliminate the often lengthy and costly period of time elapsing between the issue of the decision and the order.

NEW TECHNOLOGY

The Board is continuing to look at ways to enhance its office technology. Additional laptops were acquired in this fiscal year for the members' use in the preparation of their decisions. In a further attempt to expedite the decision process a voicewriter system, which will enable members to transmit their decisions using the telephone system from anywhere in the province, is being investigated.

Negotiations with Q.L. Systems, which would put all Ontario Municipal Board decisions on the Q.L. database, have been concluded. Access to the Q.L. database should be available in the very near future through the law firms and public libraries who subscribe to this service. It will also greatly assist members of the Board in their research and decision writing.

HEARINGS

The Hearings Division scheduled 2552 hearings involving 3915 files during the 1989-1990 fiscal year.

The number of actual hearings held was 1912 involving 2974 files. The following chart provides information on the type of hearings over the last three fiscal years:

		HEARINGS CHEDULE	-	HEAF HE		SCHE		OF FILES	ARD
	1989-90	1988-89	1987-88	1989-90	1988-89	1989-90	1988-89	1989-90	1988-89
Planning & Municipal	1988	1980	1884	1557	1475	3016	2598	2404	2081
Assessment Appeals	510	374	447	330	268	842	669	542	498
Land Compensation	32	36	35	15	21	42	43	15	27
Consolidated Hearings	12	13	0_	10	12	15	14_	13	13
TOTAL	2552	2403	2366	1912	1776	3915	3324	2974	2619

It should be noted that the difference between 2552 hearings scheduled and the 1912 actually held, represents 640 adjournments and withdrawals. If the Board is advised of an adjournment or withdrawal less than 30 days before the start of the hearing, it is possible the Board will not be able to schedule another hearing in time to utilize that Member. As a result, the Board requests that all adjournments or withdrawals be communicated to the Board's Hearings Division as soon as possible prior to the hearing.

FINANCIAL SUMMARY

REVENUE:

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. Revenues collected under Section 98 of the Act are reported as Miscellaneous. They include subscriptions to Ontario Municipal Board decisions, publications and photocopying charges. The fees collected by the Board are paid to the Treasurer of Ontario.

Application, Appeal or Referral Type	1988-89 Fees Collected		Fe	1989-90 Fees Collected	
Capital Expenditures	\$	629,675.30	\$	636,822.50	
Planning Act Matters	\$	375,535.00	\$	413,575.00	
Assessment Appeals	\$	161,055.00	\$	137,530.00	
Miscellaneous	\$	27,237.66	\$	28,601.55	
TOTAL	\$1	,193,502.96	\$	1,216,529.05	

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

Account Item	1.988-89	1989-90
Salary & Wages	\$4,039,669.00	\$4,316,000.00
Employee Benefits	\$ 570,830.00	\$ 650,500.00
Transportation & Communications	\$ 410,805.00	\$ 472,200.00
Services	\$ 254,373.00	\$ 201,000.00
Supplies & Equipment	\$ 244,671.00	\$ 97,200.00
Transfer Payments	\$ 10,000.00	\$ 10,000.00
TOTAL EXPENDITURES	\$5,530,348.00	\$5,746,900.00

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

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Assessment Act
    Barrie-Innisfil Annexation Act, 1981
        Barrie-Vespra Annexation Act, 1984
             Beach Protection Act
                 Cemeteries Act
                      Conservation Authorities Act
                          Consolidated Hearings Act
                               County of Oxford Act
                                   District Municipality of Muskoka Act
                                       District Welfare Administration Boards Act
                                            Education Act
                                                Environmental Assessment Act
                                                     Evidence Act
                                                         Expropriations Act
                                                              Haliburton Act
                                                                  Homes for the Aged and Rest Homes Act
                                                                       Housing Development Act
                                                                           Legal Aid Act
                                                                               Legislative Assembly Act
                                                                                    Liquor Licence Act
                                                                                        Local Improvement Act
                                                                                             Mining Tax Act
                                                                                        Moosonee Development Area Board Act
                                                                                    Municipal Act
                                                                                Municipal Affairs Act
                                                                           Municipal Boundary Negotiations Act, 1981
                                                                       Municipal Corporations Quieting Orders Act
                                                                  Municipal Elections Act
                                                              Municipal Franchises Act
                                                          Municipal Tax Assistance Act
                                                     Municipality of Metropolitan Toronto Act
                                                 Niagara Escarpment Planning and Development Act
                                            Ontario Education Capital Aid Corporation Act
                                        Ontario Heritage Act
                                   Ontario Highway Transport Board Act
                               Ontario Municipal Board Act
                           Ontario Municipal Improvement Corporation Act
                      Ontario Northland Transportation Commission Act
                  Ontario Planning and Development Act
             Ontario Universities Capital Aid Corporation Act
         Ontario Water Resources Act
     Ontario Telephone Development Corporation Act
Pits and Quarries Control Act
     Planning Act
         Power Corporation Act
             Public Commerical Vehicles Act
                  Public Libraries Act
                      Public Service Works on Highway Act
                           Public Transportation and Highway Improvement Act
                               Public Utilities Act
                                    Railways Act
                                        Regional Municipality of Durham Act
                                             Regional Municipality of Haldimand-Norfolk Act
                                                 Regional Municipality of Halton Act
                                                      Regional Municipality of Hamilton-Wentworth Act
                                                          Regional Municipality of Niagara Act
                                                              Regional Municipality of Ottawa-Carleton Act
                                                                   Regional Municipality of Peel Act
                                                                       Regional Municipality of Sudbury Act
                                                                            Regional Municipality of Waterloo Act
                                                                                Regional Municipality of York Act
                                                                                     Registry Act
                                                                                Regulations Act
                                                                            Rental Housing Protection Act, 1986
                                                                       St. Lawrence Parks Commission Act
                                                                   Shoreline Property Assistance Act
                                                              Telephone Act
                                                          Territorial Division Act
                                                      Tile Drainage Act
```

Note: In addition to this list (which may not be complete), there are in excess of 100 private Acts for individual municipalities which confer specific jurisdiction and authority on the Board.

Trees Act Trustee Act

MEMBERS OF THE ONTARIO MUNICIPAL BOARD 1989-90

Members

H. E. Stewart, Chairman

John P. Kruger, Chairman

D. S. Colborne, Vice-Chairman

P. M. Brooks, Q.C., Vice-Chairman

H. H. Lancaster, Q.C., Vice-Chairman

D. H. McRobb,

Vice-Chairman

T. F. Baines, Q.C., Vice-Chairman

A. J. L. Chapman, Q.C., Vice-Chairman

vice-Chairman

P. G. Wilkes, Vice-Chairman

A. B. Ball

J. A. Wheler, Q.C. C. G. Charron, Q.C.

K. D. Bindhardt D. L. Santo S. R. Cole G. M. Hobart

D. W. Middleton J. R. Mills

P. H. Howden, Q.C. E. F. Crossland

G. A. Harron M. A. Rosenberg, Q.C. R. D. M. Owen

R. W. Rodman G. I. Thomson, Q.C. Brian W. McLoughlin

René Chartier

M. E. Johnson S. W. Lee J. R. Tomlinson A. Delfino C. Millar Ted Yao N. Katary W. R. F. Watty R. Eisen, Q.C.

Date of Appointment

April 1, 1974 September 1, 1979 March 1990 — Retired

March 19, 1990

September 3, 1968 June 1, 1977

November 1, 1973 November 13, 1980 April 30, 1989 — Retired

September 7, 1970 June 30, 1981

January 3, 1978 October 22, 1982

March 17, 1980 October 5, 1989

September 30, 1974 October 5, 1989

January 16, 1978 October 5, 1989

January 1, 1974 September 3, 1974 February 1, 1975

March 31, 1990 - Retired

January 2, 1976 March 10, 1980 October 8, 1981 October 8, 1981

July 31, 1989 — Retired

October 8, 1981 May 10, 1982 July 19, 1982 November 1, 1982

January 31, 1990 - Retired

December 1, 1982 January 3, 1983 January 4, 1983 March 14, 1983 May 2, 1983 January 1, 1984 February 1, 1984

April 5, 1989 - Resigned

July 12, 1988 July 1, 1988 September 6, 1988 January 3, 1989 May 15, 1989 July 3, 1989 August 1, 1989 January 16, 1990 ADMINISTRATION OF THE ONTARIO MUNICIPAL BOARD

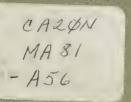
Hearings (D.M. Stewart) Manager of Manager (J. Smith) Assistant Systems Officer (I. McKay) Services (F. Rowe) Supervisor, General Secretary & Manager, Administrative Officer Accounts (P. Corder) Secretary & Chief Records & Assistant Board Supervisor, Administration (J.G.Malcolm) (B.C. Alty) (J. Chamelka & D. Watt) Supervisors, Processing Services Applications (S. Cacciotti) Expenditures Supervisor, Capital Planning and Municipal Finance (J. Hayes) Assistant Manager Assessment Analysis (S. Croft) Supervisor, Appeals & Financial Planning and Municipal Finance (C. Fenn) Manager, Compensation (H. Campbell) Supervisor, Zoning, Official Plans, Subdivisions and Land Planning and Municipal Finance Assistant Manager (C. Hall) Variances & Applications (Ellen Durjancik) Supervisor, Consents, Municipal Minor



Ontario Municipal Board Tel: 416-598-2266

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180 Dundas St. West Toronto, Ordanio MSG 1E5





Ontario Municipa Board

83rd ANNUAL REPORT

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180 Dundas St. West Toronto, Ontario M5G 1E5

The Honourable Ian G. Scott, Q.C. Attorney General Ministry of the Attorney General 720 Bay Street, 11th Floor TORONTO, Ontario

me Mary

Dear Sir:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1988-1989 fiscal year.

You will note that this is the first Annual Report of the Ontario Municipal Board submitted on a fiscal year basis. This change has been made to streamline and reduce the operating cost of the Board's automated management information system. It also brings release of the Board's Annual Report in step with your Ministry's Annual Report release.

Another change of note is the content of this report. Previous reports documented the role and responsibility of the Board. This report speaks more to the issues the Board faced during 1988-1989.

A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, school boards and universities. It is available in English and French.

H.E. Stewart Chairman

J.G. Malcolm Secretary and Chief Administrative Officer

JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act enacted in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts. Most of the powers bestowed upon the Board in 1932 have been retained to this date. In addition, many other statutes have assigned jurisdiction or authority to the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisdiction or authority on the Board is given in Chart A. Many of those listed result in infrequent applications or appeals.

MEMBERS OF THE BOARD

As of March 31, 1989, there were 32 Members of the Board, including the Chairman and four Vice-Chairmen. Members of the Board during the 1988-1989 fiscal year are listed on Chart B.

Members are appointed by the Lieutenant-Governor-in-Council and serve on a full-time basis. They are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions. Approximately half of the Members are lawyers with other Members being accountants, engineers, architects, planners and municipal administrators. The Board wishes to acknowledge the contributions of D.M. Rogers, Q.C. and V.M. Singer, Q.C.

Mr. Rogers, a Member of the Ontario Municipal Board for nine years, retired March 31, 1989.

Mr. Singer, a Member of the Board for almost eleven years retired March 31, 1989.

The Board welcomed four new Members this past year. They are Mrs. M.E. Johnson, Mr. S.W. Lee, Mr. J.R. Tomlinson and Mr. A. Delfino. Mrs. Johnson is a lawyer and holds a Master's degree in planning. Prior to her appointment to the Board on July 1, 1988, she was Director of the Land Use Control Division of the City of North York.

Mr. Lee joined the Board on July 1, 1988. He was previously a solicitor with The Regional Municipality of Peel.

Mr. Tomlinson joined the Board on September 6, 1988. Mr. Tomlinson spent several years with the Ministry of Municipal Affairs Legal Department before being named Senior Solicitor to the Ministry of Health.

Mr. Delfino joined the Board on January 3, 1989. Mr. Delfino's background includes Chairmanship of the City of Toronto Committee of Adjustment and his professional career was in education.

ADMINISTRATION OF THE BOARD

As of March 31, 1989, the Board had a staff of 58. They provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings, and the preparation of Board orders and decisions.

The organization of the Board's staff is shown on Chart C.

In August, 1988, Mohamed Manji, Manager of Capital Expenditures and Assessment Appeals for 10 years, left the Board. He is now Regional Registrar, Metro South Assessment Review Board.

As a result of administrative restructuring in December 1988, Carolyn Fenn, formerly Manager, Planning and Land Compensation became Manager, Planning and Municipal Finance. The Board's land compensation responsibilities have been integrated with the Municipal Planning Section.

The Board also established two Assistant Manager positions. Cheryl Hall and Joanne Hayes, formerly Supervisors in the Board's Planning Division assumed the positions of Assistant Manager, Planning and Assistant Manager, Municipal Finance.

CURRENT ISSUES A) WORKLOAD

Unquestionably, the single biggest issue facing the Ontario Municipal Board during 1988 and into 1989 was workload. The tremendous surge in the provincial economy and the resultant development activity has left the Board with a significant increase in workload in comparison to past years, with no corresponding increase in the number of Members or staff. A statistical comparison follows:

REFERRAL RECEIVED BY THE O.M.B.	1988-89	1987-88	1986-8
Assessment Appeals	886	1071	1004
Capital Expenditures of	1541	1506	1498
Municipalities and School Boards			
Zoning By-law Appeals/Approvals	761	628	644
Appeals from Councils' Refusal	257	188	165
to Amend Zoning By-laws			
5. Minor Variance Appeals	820	715	637
6. Consent Appeals	848	665	63
7. Official Plans	242	150	150
8. Plans of Subdivision	87	50	3.
9. Miscellaneous	140	137	111
10. Land Compensation	37	23	38
11. Consolidated Hearings	17	2	
TOTAL	5636	5135	4912

In the overall makeup of the Board's workload, planning applications continue to predominate.

Although the Assessment category shows a decrease in the number of files opened, the number of complaints or appeals these files contain has increased. A separate file is not always opened for each appeal received and a file may contain numerous appeals which have a common issue; for example, appeals in a shopping mall or condominium complex.

The following Chart provides a geographic perspective. It reflects the number of new applications received from each county, district, and regional municipality in the province.

MUNICIPALITIES	APPLICATIONS FOR CAPITAL EXPENDITURE APPROVAL	ASSESSMENT COMPLAINTS	ZONING, OFFICIAL PLANS & SUBDIVISION APPEALS & REFERRALS	CONSENTS	MINOR
Regions					
Metropolitan Toronto	120	2148	141	39	364
Haldimand-Norfolk	500	18	5	26	30
Hamilton-Wentworth	41 27	339 100	39 54	31	28 2
Niagara Ottawa-Carleton	73 83	3750	51	126	22.2
Peel Sudbury	67	722	93.	25	37
Waterloo York	73	288	- 127	213	0.6
koka	54	27	26	1.35	80 80
SUB TOTAL:	809	8141	713	427	629
Counties					
Brant	46	456	4-	Ť.	Lf.
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Thunder Bay Timiskaming	255	9 ep r	252	7	9
SUB TOTAL:	136	0 90	31		2
GBAND TOTAL	77 4		0/		21

The Board, in an attempt to make the most efficient use of available Member hearing time, is experimenting with a number of procedural and administrative initiatives:

- a) ELECTRONIC MOTIONS: Motions which would have to be heard in locations relatively distant from the Board's offices have been conducted by conference call. Exhibits have been prefiled, but could be faxed during the motion if necessary. This process works best where there are few parties, preferably represented by counsel. A tremendous saving in Member time, travel and cost is achieved.
- b) LISTS OF CONSENTS AND VARIANCE FILES: The Board has had success hearing a "list" of several consent and variance files as opposed to scheduling one per half day as has been done in the past. This works well when there is a common official plan and zoning by-law. To date, the hearings conducted in this way have been positively received by participants, counsel and municipal officials despite their having to wait their turn as opposed to having a specific 10:00 a.m. or 2:00 p.m. appointment. Member hearing time can be saved by this process.
- c) LETTERS AND MOTIONS DISPENSING WITH A PUBLIC HEARING: When the Board, a proponent, or municipality, identify a situation where the basis for appeal is questionable, motions under sections 34(26), 52(16), and 44(17) of the Planning Act have been held. The Chairman has also written to appellants inviting them to make written representations as to the merits of their appeal. If no response is received, the appeal is considered abandoned. Both techniques weed out weak appeals with the result that Member hearing time is conserved.
- d) PREHEARING CONFERENCES: Prehearing conferences have recently been effective in a number of the longer, more complex matters to identify parties, narrow issues and provide directions.
- e) MINUTES OF SETTLEMENT: The Board's staff have now arranged with almost all municipalities to have minutes of settlement on assessment appeals signed by the municipality as well as the Assessment Commissioner and the property owner. As a result, no hearing need be scheduled to confirm the agreement.
- f) ABRIDGEMENTS: The Ontario Municipal Board's usual minimum hearing notice times are 30 to 60 days depending on the nature of the matter to be heard. The Board has often abridged the time for notice to save a hearing date that might otherwise have been lost due to adjournments or hearings ending sooner than expected.

The time limits have been reduced significantly when one or more participants to a hearing secured the consent of all parties to an abridgement. In some instances where it is deemed necessary, abridged notice from the standard sixty days notice requirement, on restricted area appeals, (Section 34(11) of the Planning Act), has been granted when the proposed by-law is to be joined with an official plan amendment referral that has undergone the full municipal process, or . . . when the by-law amendment has, itself, undergone that process prior to being denied by the municipal council.

g) NOTICE BEFORE REFERRAL: In some cases, directions for notice have been given before the Minister has referred an official plan amendment or plan of subdivision to the Board. The notice indicates that if the Minister or Region refers, then that matter will join others previously scheduled. This

form of notice incurs a high adjournment risk and should only be used if the referral authority has provided assurances the referral will occur.

h) SCHEDULING PREVIOUSLY ADJOURNED MATTERS: Board staff have been writing to applicants that have had matters adjourned, asking them to contact all parties to arrange a date some months hence which will be peremptory. This will reduce adjournments and conserve Member time.

For the past several years, the Ontario Municipal Board has reacted to an increasing workload with a declining number of Members by developing initiatives such as those listed above. That process continues under the auspices of a Board committee charged with developing ways of shortening hearings. The Board has asked the Municipal Section of the Canadian Bar Association to assist.

The Board is also pleased to report that it will participate in the Ministries of Municipal Affairs and Housing's streamlining initiative. That initiative will address all venues for making the development approvals process more efficient. The Ontario Municipal Board, while participating in the broader review, will concentrate its efforts on its continuing examination of the various appeals, referrals and hearing processes.

B) BILL 128

Bill 128, which received Royal Assent on February 27, 1989, made numerous changes to the Planning Act, 1983. Some of these affect the Board's operation. For example, when Section 14 of the Bill becomes effective the appeal period on zoning by-laws enacted under Section 34 will be reduced from 35 to 20 days and will commence from the day notice of passage is completed rather than 35 days from the date of passage of the by-law.

Also, Section 52(20) was amended to impose a one year time limitation period on fulfilling conditions in respect of a consent where there has been an appeal to the Board. This provision is now in effect.

Section 44(12) of the Planning Act dealing with minor variances was also amended so that an appeal must now be filed with the Secretary-Treasurer within thirty days of the making of the decision. This amendment makes the appeal procedure consistent with that for consents under Section 52.

C) BILL 100

Bill 100, which received Royal Assent on June 1, 1988 made changes to the Education Act.

Bill 100, amongst other things, repealed Section 213 of the Act. Section 213(8) had allowed an appeal to the Board against the decision of the arbitrators with respect to the apportionment of costs for school purposes. This is no longer possible.

D) ASSESSMENTS

The past year has seen the resolution of many long outstanding matters in the Board's Assessment Appeals Division which were held pending the resolution of certain legal issues. Many large multi-property appeals were finalized namely; Tandy/Radio Shack, I.B.M. and Mediacom.

It is expected that the coming year will see the resolution of approximately 20,000 of the over 35,000 outstanding complaints affecting condominiums across the province which have been held in abeyance pending the outcome of various court cases.

PUBLICATIONS AND DECISIONS

A number of publications are available to those dealing with the Board. These publications have been prepared in an effort to assist individuals with the procedural requirements, policies, guidelines and regulations.

A list of these publications follows. They are available through the Information Office of the Board.

1) ONTARIO REGULATION 537/87

The Board's Rules of Procedure deal with specific rules governing proceedings under the Expropriations and Assessment Acts as well as general regulations covering such topics as motions, summons to witness, notices, conduct, etc.

2) REGULATION 330/86

This regulation sets out the fees for applications, appeals, etc., filed with the Board.

3) THE ROLE OF THE ONTARIO MUNICIPAL BOARD WITH RESPECT TO UNDERTAKINGS INVOLVING LONG-TERM COMMITMENTS BY ONTARIO MUNICIPALITIES AND SCHOOL BOARDS

This publication describes the Board's guidelines for expenditure control and the calculation of municipal and school board debt capacities for future borrowing.

4) PROCEDURES WITH RESPECT TO APPLICATIONS TO THE ONTARIO MUNICIPAL BOARD FOR APPROVAL OF UNDERTAKINGS PURSUANT TO SECTION 64 OF THE ONTARIO MUNICIPAL BOARD ACT

This brochure describes in detail the procedures and requirements of the Board for the submissions/applications for approval of capital expenditures to be incurred by municipalities, school boards and conservation authorities.

5) GUIDELINES ON COSTS

This publication has been prepared to assist those who appear before the Board in understanding the principals by which the Board is guided in exercising its authority under Section 96 of the Ontario Municipal Board Act.

6) YOUR GUIDE TO ONTARIO MUNICIPAL BOARD HEARINGS

This brochure has been especially prepared for those who may not be familiar with the Board and its hearing procedures. It describes the procedures one can expect to encounter at hearings of the Ontario Municipal Board.

7) ONTARIO MUNICIPAL BOARD DECISIONS

Individual decisions issued by the Board and subscriptions to decisions are available.

8) ONTARIO MUNICIPAL BOARD REPORTS

It should be noted that select decisions of the Ontario Municipal Board and Joint Boards under the Consolidated Hearings Act are contained in the Ontario Municipal Board Reports. The Ontario Municipal Board Reports contain significant decisions of these Boards. Each decision is selected for inclusion by an independent editorial panel and an explanatory headnote

precedes each decision. Subscriptions to the Ontario Municipal Board Reports are available from the publisher, Canada Law Book, 240 Edward Street, Aurora, Ontario, L4G 3S9, Telephone: (416) 773-6300, Toll-Free 1-800-263-2037.

COMPUTER

In 1988 the Board successfully integrated an automated information storage and retrieval system. OMBIS (Ontario Municipal Board Information System) has, for the most part, replaced our current manual information system and assists with the scheduling of hearings. OMBIS generates automatic invoicing, acknowledgement letters, notices of appointment for hearing and management reports designed to measure and monitor the numbers and progress of applications through the various administrative processes. This will assist in manpower planning and workload prediction. OMBIS reports, now in preparation, will assist Members with decisions tracking. Those making enquiries regarding file status will notice a marked improvement in response time due to the systems online capability.

The Board has also continued to enhance its office technology in the decisions preparation area. Six laptop computers and a personal computer have been acquired for the Members' use. All are intended to assist with decision drafting. Each portable is equipped with a modem so that drafted decisions may be forwarded electronically to the Board when the Member is in other parts of the Province.

All wordprocessing staff will begin training on a new wordprocessing system based on the same technology and software as the laptops. It is expected full implementation will be complete in 1989-90.

The Board and Q.L. Systems is in the process of negotiating an agreement which would put all Ontario Municipal Board decisions on the Q.L. database. This database is widely available through law firms or public libraries who subscribe. Access to the database will also be made available to the Members to assist with research and decision writing.

HEARINGS

The Hearings Division scheduled 2403 hearings involving 3324 files during the 1988-1989 fiscal year.

The number of actual hearings held was 1776 involving 2619 files. The following chart provides information on the type of hearings over the last three fiscal years:

	HEARINGS SCHEDULED			HEARINGS HELD		SCHE		OF FILES HEARD	
	1988-89 1987-88 1986-87			1988-89	1987-88	1988-89	1987-88	1988-89	1987-88
Planning and Municipal	1980	1884	1948	1475	1424	2598	2579	2081	1974
Assessment Appeals	374	447	479	268	331	669	1064	498	841
Land Compensation	36	35	49	21	26	43	38	27	28
Consolidated Hearings	13	0	3	12	0	14	0	13	0
TOTAL	2403	2366	2479	1776	1781	3324	3681	2619	2843

It should be noted that the difference between the 2403 hearings scheduled and the 1776 actually held, represents 627 adjournments and withdrawals. If the Board is advised of an adjournment or withdrawal less than 30 days before the start of the hearing, it is possible the Board will not be able to schedule another hearing in time to utilize that Member. As a result, the Board requests that all adjournments or withdrawals be communicated to the Board's Hearings Division as soon as possible prior to the hearing.

FINANCIAL SUMMARY

REVENUE:

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. The fees collected by the Board are paid to the Treasurer of Ontario.

Application, Appeal or Referral Type	Fees Collected
Capital Expenditures	\$629,675.30
Planning Act Matters	\$375,535.00
Assessment Appeals	\$161,055.00
Miscellaneous	\$ 27,237.66
TOTAL	\$1,193,502.96

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

Account Item	Α	mount
Salary & Wages	\$4	4,039,669.00
Employee Benefits	\$	570,830.00
Transportation & Communications	\$	410,805.00
Services	\$	254,373.00
Supplies & Equipment	\$	244,671.00
Transfer Payments	\$	10,000.00
TOTAL EXPENDITURES	\$5	5,530,348.00

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

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Assessment Act
    Barrie-Innisfil Annexation Act, 1981
         Barrie-Vespra Annexation Act, 1984
             Beach Protection Act
                  Cemeteries Act
                      Conservation Authorities Act
                           Consolidated Hearings Act
                               County of Oxford Act
                                    District Municipality of Muskoka Act
                                        District Welfare Administration Boards Act
                                             Education Act
                                                 Environmental Assessment Act
                                                      Evidence Act
                                                          Expropriations Act
                                                               Haliburton Act
                                                                   Homes for the Aged and Rest Homes Act
                                                                        Housing Development Act
                                                                            Legal Aid Act
                                                                                 Legislative Assembly Act
                                                                                     Liquor Licence Act
                                                                                          Local Improvement Act
                                                                                              Mining Tax Act
                                                                                          Moosonee Development Area Board Act
                                                                                     Municipal Act
                                                                                 Municipal Affairs Act
                                                                            Municipal Boundary Negotiations Act, 1981
                                                                        Municipal Corporations Quieting Orders Act
                                                                   Municipal Elections Act
                                                               Municipal Franchises Act
                                                          Municipal Tax Assistance Act
                                                      Municipality of Metropolitan Toronto Act
                                                  Niagara Escarpment Planning and Development Act
                                             Ontario Education Capital Aid Corporation Act
                                         Ontario Heritage Act
                                    Ontario Highway Transport Board Act
                                Ontario Municipal Board Act
                           Ontario Municipal Improvement Corporation Act
                       Ontario Northland Transportation Commission Act
                  Ontario Planning and Development Act
              Ontario Universities Capital Aid Corporation Act
         Ontario Water Resources Act
     Ontario Telephone Development Corporation Act
Pits and Quarries Control Act
     Planning Act
         Power Corporation Act
              Public Commerical Vehicles Act
                  Public Libraries Act
                       Public Service Works on Highway Act
                            Public Transportation and Highway Improvement Act
                                Public Utilities Act
                                    Railways Act
                                         Regional Municipality of Durham Act
                                              Regional Municipality of Haldimand-Norfolk Act
                                                  Regional Municipality of Halton Act
                                                      Regional Municipality of Hamilton-Wentworth Act
                                                           Regional Municipality of Niagara Act
Regional Municipality of Ottawa-Carleton Act
                                                                    Regional Municipality of Peel Act
                                                                         Regional Municipality of Sudbury Act
                                                                             Regional Municipality of Waterloo Act
                                                                                 Regional Municipality of York Act
                                                                                      Registry Act
                                                                                  Regulations Act
                                                                             Rental Housing Protection Act, 1986
                                                                         St. Lawrence Parks Commission Act
                                                                    Shoreline Property Assistance Act
                                                                Telephone Act
                                                           Territorial Division Act
                                                       Tile Drainage Act
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Trees Act Trustee Act

MEMBERS OF THE ONTARIO MUNICIPAL BOARD

Member

H.E. Stewart, Chairman

D.S. Colbourne, Vice-Chairman

P.M. Brooks, Q.C., Vice-Chairman

H.H. Lancaster, Q.C., Vice-Chairman

D.H. McRobb, Vice-Chairman

A.B. Ball

J.A. Wheler, Q.C.

A.J.L. Chapman, Q.C.

C.G. Charron, Q.C.

K.D. Bindhardt

P.G. Wilkes

V.M. Singer, Q.C.

D.L. Santo

D.M. Rogers, Q.C.

T.F. Baines, Q.C.

S.R. Cole

G.M. Hobart

D.W. Middleton

J.R. Mills

P.H. Howden, Q.C.

E.F. Crossland

G.A. Harron

M.A. Rosenberg, Q.C.

R.D.M. Owen

R.W. Rodman

G.I. Thomson, Q.C.

Brian W. McLoughlin

René Chartier

M.E. Johnson

S.W. Lee

J.R. Tomlinson

A. Delfino

Date of Appointment

April 1, 1974

Chairman since September 1, 1979

September 3, 1968

Vice-Chairman since June 1, 1977

November 1, 1973

Vice-Chairman since November 13, 1980

September 7, 1970

Vice-Chairman since June 30, 1981

January 3, 1978

Vice-Chairman since October 22, 1982

January 1, 1974

September 3, 1974

September 30, 1974

February 1, 1975

January 2, 1976

January 16, 1978

September 1, 1978

Retired March 31, 1989

March 10, 1980

March 10, 1980

Retired March 31, 1989

March 17, 1980

October 8, 1981

October 8, 1981

October 8, 1981

May 10, 1982

July 19, 1982

November 1, 1982

December 1, 1982

January 3, 1983

January 4, 1983

March 14, 1983

May 2, 1983

January 1, 1984

February 1, 1984

July 1, 1988

July 1, 1988

September 6, 1988

January 3, 1989

ADMINISTRATION OF THE ONTARIO MUNICIPAL BOARD Systems Officer (I. McKay) Secretary & Chief Administrative Officer Secretary & Manager, Assistant Board Administration (J.G.Malcolm) (B.C. Alty) Assistant Manager Planning and Municipal Finance (J. Hayes) Municipal Finance (C. Fenn) Planning and Manager,

(D.M. Stewart) Manager of Hearings Manager (J. Smith) Assistant Supervisor, General Services (F. Rowe) Accounts (P. Corder) Supervisor, Records & (J. Chamelka & D. Watt) Supervisors. Processing Services Word Applications (S. Cacciotti) Expenditures Supervisor, Capital Assessment Analysis (S. Croft) Supervisor, Appeals & Financial Compensation (H. Campbell) Official Plans, Subdivisions and Land Supervisor, Zoning, Planning and Municipal Finance Assistant Manager (C. Hall) Supervisor, Consents, Variances & Applications Municipal (Vacant) Minor

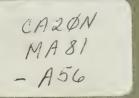




Ontario Municipal Board Tel: 416-598-226

Fax 416-079-8808

180 Dundas St. West Toranto, Omario MSG 1E5





Ontario Municipal Board

82nd ANNUAL REPORT

January 1, 1987 to December 31, 1987

H.E. Stewart Chairman

J.G. Malcolm Secretary and Chief Administrative Officer



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Vous pouvez vous procurer le présent document en vous addressant au:

Bureau des Renseignements Commission des affaires municipale de l'Ontario 180 Rue Dundas Ouest Toronto, Ontario M5G 1E5

Téléfone: 416-598-2266 Fax 416-979-8808

Additional copies of this publication are available from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, M7A 1N8, Telephone (416) 965-2054 and the Information Office, Ontario Municipal Board, 180 Dundas Street West, Toronto, Ontario, M5G 1E5, Telephone (416) 598-2266, Fax (416) 979-8808.

On peut obtenir des exemplaires du présent document à la librairie du gouvernement de l'Ontario, 880, rue Bay, Toronto, Ontario, M7A 1N8, Téléphone: (416) 965-2054 et Bureau des Renseignements, Commission des affaires municipale de l'Ontario, 180 rue Dundas Ouest, Toronto, Ontario, M5G 1E5, Téléphone (416) 598-2266, Fax (416) 979-8808.



Ontario Municipal Board

Tel. 416/598-2266 Fax 416/979-8808 180 Dundas St. West Toronto, Ontario M5G 1E5

May 31, 1988

The Honourable Ian G. Scott, Q.C. Attorney General
Ministry of the Attorney General
18 King Street East
18th Floor
TORONTO, Ontario
M5C 1C5

Dear Mr. Attorney General:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1987 calendar year.

As was the case with the previous reports, the Annual Report for 1987 is being utilized as an information document on the role and responsibilities of the Ontario Municipal Board. A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, schools, universities. It is available in English and French.

H.E. Stewart Chairman

J.G. Malcolm Secretary and Chief Administrative Officer

JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts. Most of the powers bestowed upon the Board in 1932 have been retained to this date although many other statutes have assigned jurisdiction or authority on the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisdiction or authority on the Board is given in Chart A, although many of those listed result in infrequent applications or appeals.

When a hearing is held, it is governed by any applicable statute, but it is also subject to the rules of natural justice and the requirements of the Statutory Powers Procedure Act.

The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm of which this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedents. Administrative boards, such as this Board, administer what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion.

In matters of law and jurisdiction, there is provision for appeal from decisions of the Board to the courts. In a limited number of the matters dealt with, there is a provision for appeal from the Board's decision to Cabinet by way of a petition to the Lieutenant-Governor-in-Council.

The Board has authority under Section 42 of the Ontario Municipal Board Act to review any of its decisions or orders to determine if they should be varied. This authority is generally exercised when one or more of the following occurs:

- error in jurisdiction or procedural defect
- fraud or misrepresentation by any party or witness
- manifest error of decision or fact
- changed circumstances or new evidence
- other good and sufficient reason

MEMBERS OF THE BOARD

As of December 31, 1987, there were 29 Members of the Board, including the Chairman and four Vice-Chairmen. Members of the Board during 1987 are listed on Chart B.

Members are appointed by the Lieutenant-Governor-in-Council and serve on a full-time basis. They are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions. Approximately half of the Members are lawyers with other Members being accountants, engineers, architects, planners and municipal administrators.

The Board wishes to acknowledge the contribution of H.W. Kelly, Q.C., and G. Campbell, Q.C. Mr. Kelly, a Member of the Ontario Municipal Board for thirteen years, retired September 30, 1987. Mr. Campbell, previously a Member of the Land Compensation Board, became a Member of the Ontario Municipal Board on October 8, 1981, when the Land Compensation Board was amalgamated with the Ontario Municipal Board. Mr. Campbell retired August 31, 1987.

It is with sincere regret that the Board reports the death of M.D. Henderson, Mr. Henderson died on July 19, 1987, after a lengthy illness. He had served as a member of the Ontario Municipal Board since September 1, 1978.

ADMINISTRATION OF THE BOARD

As of December 31, 1987, the Board had a staff complement of 64. The staff of the Board provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings, and the preparation of Board orders and decisions.

The organization of the Board's staff is shown on Chart C.

In June 1987 Chris Stoyanovich, Manager of the Planning and Land Compensation Division for three years, left the Board. He is now Executive Director of the Urban Development Institute (U.D.I.).

Carloyn Fenn, Supervisor of the Zoning, Official Plans and Subdivisions Section during Mr. Stoyanovich's tenure, became Manager of the Planning and Land Compensation Division in July 1987. Mrs. Fenn joined the Board staff in November 1983 and is a member of the Association of Municipal Clerks and Treasurers of Ontario.

A Fax machine has been installed to assist with the transmittal of urgent materials. It is also expected to be useful for transmittal of directions for notice where time is limited. The Board will continue to release decisions by mail.

In 1987, the Board successfully completed preliminary implementation and testing of an automated, information storage and retrieval system. OMBIS (Ontario Municipal Board Information System), will replace our current manual information system and will assist with the scheduling of hearings. OMBIS will generate automatic invoicing, acknowledgement letters, notices of appointment for hearing and statistical management reports.

The on-line system will quicken the retrieval of information and expedite public inquiries. It will reduce the repetitive work involved with processing applications and assist with the tracking of files. It will also produce reports previously generated manually.

January 1, 1988, is the approximate date for live implementation of the system. Further testing is required and hopefully by June 1st, 1988, OMBIS will replace much of the manual system for application processing.

HEARINGS

The Hearings Division scheduled 2486 hearings involving 3983 files during 1987. Eighteen hundred and forty-one hearings were held involving 3061 files. Members of the Board spent 4042 hearing days dealing with various types of matters that came before the Board. Chart D provides information on the type of hearings over the last three years.

Although two Members constitute a quorum for Ontario Municipal Board hearings, more than two Members can be assigned to a hearing as long as the number of Members is uneven. The Chairman has authority, however, to appoint only one Member to hear and decide on any application. Hearing length varies from file to file, with some matters scheduled for a number of months and some only for a portion of a day.

It is the practice of the Board to conduct hearings in the municipality from which the application originated and generally the only hearings held by the Board at their offices in Toronto involve Metropolitan Toronto. Prior to 1987, hearings for the City of Mississauga were held in the Board's offices, but, in 1987, the City of Mississauga opened their new City Hall and the Board has been provided a hearing room in their new facilities giving citizens of Mississauga easier access to Board hearings. The Board appreciates the co-operation of municipalities in providing hearing accommodation.

Members of the Board are required to travel extensively to all parts of Ontario. During 1987, hearings for planning matters took 70 percent of the Members' hearing time. Assessment appeals required 13 percent and land compensation and consolidated hearings each required 4 percent. The balance involved capital expenditure and other matters.

Five French Language hearings were held by the Board in 1987. The Board's normal practice is to hold a hearing in English or French and when necessary will arrange translation services for those who might have difficulty with the language to be used at that hearing.

DECISIONS OF THE BOARD

The Ontario Municipal Board Reports, published by Canada Law Book Limited, under arrangement with the Board and the Ministry of the Attorney General, contain selected decisions of the Board. Subscriptions to this publication may be obtained through Canada law Book Limited.

Land Compensation decisions of the Board are found in the Land Compensation Reports available through Canada Law Book Limited.

Decisions issued by the Board are available from the Board. Subscription rates are as follows:

Full subscription	\$300 per annum
Partial subscription (Excluding Assessment	
& Land Compensation)	\$200 per annum
Assessments only	\$100 per annum
Land Compensation only (Excluding Assessment	
& Land Compensation)	\$ 50 per annum

Copies of individual decisions may be obtained on request from the information office of the Board at a cost of 50¢ per page (less than 6 pages – no charge).

In 1987, the Board issued decisions concluding 3061 files. Although decisions may be delivered orally at the hearing, or reserved for later release, all are typed.

Hearings are held across the province requiring the Members to be out of the office a good deal of the time. It is therefore, not always possible for a decision to be signed as quickly as hearing participants would like. This is especially true where two or more Members have heard a matter and must confer on the decision. Extensive use is made of the telephone and couriers to facilitate preparation and review of the Board's decisions. In addition, where straightforward oral decisions have been given, staff will prepare and issue an order in advance of the memorandum of oral decision being signed and released. This will assist those individuals who require a Board order to secure a building permit or consent to sever.

Once a decision is signed, its release is imminent. However, the decision must be recorded, and prepared for mailing before it can be released. To give all hearing participants an equal opportunity to receive reserved decisions at the same time, decisions are sent by prepaid first class mail. The Board's staff are instructed not to release copies of the decision for two days from the date of mailing.

FREEDOM OF INFORMATION ACT

In anticipation of the promulgation of the Freedom of Information Act, the Board assessed the Act's impact on the Board's present procedure with regard to access to its files. Appeals/applications filed with the Board have always been open to inspection. They are generally available upon demand although a telephone call assessing availability is preferred. This is in the event the file is with a Member for the purpose of a hearing, the writing of a decision, or with a staff person for processing. A coin-operated photocopy machine is available for those wishing copies of the documents on file.

PUBLICATIONS OF THE BOARD

As narrated earlier in the Section on 'Jurisdiction and Authority', the Board as an independent administrative tribunal administers what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion. A wide range of applications/appeals are brought before it under various statutes. To assist those interacting with the Board with the procedural requirements, policies, guidelines and regulations, a number of publications have been prepared.

Those presently available, and those to be printed shortly, are as follows:

RULES OF PROCEDURE

The 81st Annual Report noted that Regulation 722 made under Section 90 of the Ontario Municipal Board Act and Regulation 316 made by the former Land Compensation Board were redrafted and consolidated. After much public input and many revisions the rules were adopted by the Board on November 14, 1986. Ontario Regulation 537/87, the Board's Rules of Procedure, enacted pursuant to Section 90 of the Ontario Municipal Board Act were published in 1987. It will come into force on January 1, 1988. Copies may be obtained from the Ontario Government Bookstore. The address for mail order service is 880 Bay Street, 5th Floor, Toronto, Ontario, M7A 1N8, Telephone (416) 965-6015 and for personal shopping the address is 880 Bay Street, Main Floor, Telephone (416) 965-2054. Copies can also be obtained from the Board.

SCHEDULE OF FEES

The fees regulation sets out the fees for applications, appeals, etc., filed with the Board.

THE ROLE OF THE ONTARIO MUNICIPAL BOARD WITH RESPECT TO UNDERTAKINGS INVOLVING LONG-TERM COMMITMENTS BY ONTARIO MUNICIPALITIES AND SCHOOL BOARDS

This publication describes the Board's guidelines for expenditure control and the calculation of municipal and school board debt capacities for future borrowing.

PROCEDURES WITH RESPECT TO APPLICATIONS TO THE ONTARIO MUNICIPAL BOARD FOR APPROVAL OF UNDERTAKINGS PURSUANT TO SECTION 64 OF THE ONTARIO MUNICIPAL BOARD ACT

This brochure describes in detail the procedures and requirements of the Board for the submissions/applications for approval of capital expenditures to be incurred by municipalities, school boards and conservation authorities.

The following publications were prepared in 1987 and will be issued in 1988:

GUIDELINES ON COSTS

Section 96 of the Ontario Municipal Board Act, in conferring the authority to award costs, indicates that any award of costs will be "...in the discretion of the Board,...". This brochure has been prepared to assist those who appear before the Board in understanding the principals by which the Board is guided in exercising this authority.

YOUR GUIDE TO ONTARIO MUNICIPAL BOARD HEARINGS

This brochure will describe in some detail the procedures one can expect to encounter at hearings of the Ontario Municipal Board. It is written as a guide for all who participate in Ontario Municipal Board hearings but especially for those who may not be familiar with the Board and its hearing procedures.

WORKLOAD AND PROCESS TIME

During 1987 the Board delivered 1784 decisions. Of these, 1130 were oral decisions delivered at the conclusion of the hearing. The Board appreciates that an appeal being decided by the Board may represent the end of a lengthy process. The high percentage of oral decisions reflects the Board's appreciation that those with matters before the Board are understandably anxious about receiving that decision. This concern applies when a municipal budget awaits a capital expenditure appeal, or a development company's interest costs escalate during a subdivision hearing. It applies when plans for a homeowner's addition are appealed and in a myriad of other situations. The Board is also cognizant of the constraints imposed by northern Ontario's short building season. In situations where the Board must reserve its decision, generally following lengthier and more complex matters, every effort is made to expedite delivery of those decisions.

Chart E provides a summary of the number of matters received by the Board. Chart E indicates that the 1987 workload increased 10% from 1986 to 1987.

The number of assessment appeals and capital expenditure applications received by the Board have both increased from 1986.

This is also true of planning matters. The increased importance of planning applications in the overall makeup of the Board's workload noted from 1985 to 1986 has been maintained in 1987.

The 1986 annual report noted that planning matters occupied a high percentage of the Member's hearing time and expressed concern that a further increase in the number of planning issues could negatively impact on the overall delivery of hearings. As forecast in 1986, the 1987 workload has continued to increase. This increasing workload has occurred over a period when a significant number of Members have left the Board. There have been no new Members appointed since 1984. While the Board's files may be made ready for hearing by the staff, there are insufficient Members to conduct the number of hearings needed to maintain the Board's target of 60 to 90 days from receipt to hearing. By the end of 1987, the Board was not meeting that target and continued to discuss with the government the need for Member appointments.

During 1987, the Board also reviewed its workload from a geographic perspective. See Chart F. This chart reflects the number of new applications received from each of the Counties, Districts, Regional and District Municipalities in the province and the number of files opened. The one exception is the assessment category, where the number of complaints is reported. Several related complaints may be contained in a single Board File.

For example, all complaints lodged by condominium owners in a building or all tenants in a shopping centre may be included in one file and addressed at one hearing.

The chart reveals as might be expected that the highest portion of the Board's workload comes from those areas currently experiencing the greatest growth pressures and having the greatest current population. It should be noted, however, in terms of the Board's overall workload, that the applications come from all parts of the province and significant effort is made to provide equitable service to all areas

Two apparent anomalies in the chart, the high number of assessment complaints from the Regions of Ottawa-Carleton and Sudbury, are explained by reassessment exercises which were conducted in parts of both regions.

ASSESSMENT APPEALS

Of the 44,000 appeals from previous years pending before the Courts, 2,000 appeals were resolved in 1987 as a result of settlements having been reached by the parties, withdrawal of appeals by appellants and decisions having been given by the Courts.

During 1987, the Board received 8,157 new appeals. Of these appeals, twentynine percent were resolved by the Board. Protective appeals for condominiums totalled 1,695. As legal matters affecting condominiums are pending before the Courts, the Board was unable to resolve these appeals.

The remaining 4,117 appeals were in process, were scheduled for hearing or, were pending decisions.

A constant follow-up action is being undertaken by the Board to assess the status of all pending appeals. It appears that parties in a number of large multiproperty appeals may reach settlements and it may be possible for the Board to finalize these files in 1988.

PLANNING AND OTHER MATTERS

In previous annual reports, the Board has outlined in some detail the responsibilities it exercises under the Planning Act and other acts. As reference to that information is available in previous reports and as there were no major legislative changes during 1987, the focus of this section will be planning issues or events that came to the Board during 1987.

1) The Niagara Escarpment Planning and Development Act

During 1987, the Board held two hearings under Section 25(6) of the Niagara Escarpment Planning and Development Act. These involved the appointment of an Ontario Municipal Board Member to hear appeals filed by the Minister of Municipal Affairs against decisions of the Niagara Escarpment Commission involving applications for development permits.

Under this legislation, the hearing officer does not issue a decision but makes a report to Cabinet, which then decides the matter.

2) Interim Control - Section 37 of the Planning Act

Many municipalities are taking advantage of the provisions of Section 37 of the Planning Act and using interim control by-laws to limit development while undertaking planning studies.

While Section 37 is a useful tool in the planning process, the Board finds that in some instances, municipalities have not submitted appeals filed against the by-laws in a timely fashion.

Occasionally, this results in a situation where there is insufficient time for the Board to schedule and hear the matter prior to the by-law's expiry. As it is clearly the legislation's intent to provide an appeal mechanism, bypassing that process by not filing appeals with the Board circumvents the statutes intent. The Board has dicussed legislative changes with the Minister of Municipal Affairs to address this issue.

3) Intimidation by Threat of Costs

The Board would like to remind proponents of development that it is not appropriate to solicit the withdrawal of objections through methods that might be viewed as intimidation.

A number of development proponents in 1987 attempted to secure the withdrawal of referrals or appeals by suggesting that citizen appellants were likely to be assessed large awards of costs by the Board should a hearing proceed.

A review of the Board's decisions indicates that costs are not often awarded. The Board's practice has been to award costs only when the conduct of one of the parties to a matter can be clearly proven to be unreasonable, frivolous or vexatious.

The Board views one of its most important responsibilities to be to provide an opportunity to be heard by any party having an interest in a matter and in practice has very rarely awarded costs against citizens who wished a matter brought to hearing. It is hoped that the Board's "Guidelines on Costs", to be published in 1988, will help to clarify the Board's position in this regard.

4) Procedural Problems

As noted above, there were no substantive changes to the Planning Act in 1987 and most municipal staff have become well versed in administering the procedural requirements of the Act. There are instances, however, where the requirements of the legislation are not fully complied with.

In these situations, it should be remembered that the Board cannot amend or abridge the public meeting and the notice of enactment requirements of the Act. In order to avoid unnecessary costs to all parties, both in terms of time and money, municipal staff are urged to exercise care to ensure the requirements of the legislation are met. For example, if the notice of the passing of a zoning by-law stipulates that appeals may be filed up to a date that exceeds the 35 days provided for in the statute, the Board is not able to deal with the appeals which may be within the time set out in the notice but actually beyond the 35 day legislated limit.

LAND COMPENSATION

The Expropriations Act empowers the Board to determine the amount of compensation to be paid by the statutory (expropriating) authority to the exproriated party.

In 1987, thirty-one applications were received by the Board regarding land compensation claims. No change in workload is anticipated in 1988.

Rules of procedure governing the arbitration process were formally contained in Regulation 316 enacted under the Expropriations Act. These have been replaced by regulation 537/87, the Ontario Municipal Board Rules of Procedure. Parties to proceedings under the Expropriations Act should refer to Part III of Regulation 537/87.

CAPITAL EXPENDITURES OF MUNICIPALITIES AND SCHOOL BOARDS

The Ontario Municipal Board is charged with the responsibility for approving a number of financial matters related to local government.

Section 64 of the Ontario Municipal Board Act requires the Board to approve all undertakings by municipalities, school boards (other than separate school boards) and local boards that are to be financed by revenues of subsequent years extending beyond the term of the incumbent municipal council or by the issue of debentures. Undertakings to be financed from current funds during the term of the council are excluded.

In order to carry out this function, the Board has developed certain criteria for establishing the borrowing capabilities of these local government entities. With the assistance of analysis performed in the Ministries of Education and Municipal Affairs, the Board has chosen a percentage of revenue fund expenditures which it considers appropriate for annual long-term commitments. For municipalities, that percentage is twenty. The Board considers that a school board should not commit more than 10 percent of its total revenue fund expenditures to capital formation. This lower rate for school boards is necessary as approximately 90 percent of school board expenditures are used to finance operating costs.

The method for calculating the debt capacities of municipalities and school boards is given in detail in the Board's publication entitled "The Role of the Ontario Municipal Board with respect to undertakings involving long-term commitments by Ontario Municipalities and School Boards". Copies of this publication are available from the Board.

The financial information for school boards is supplied directly to the Board by the Ministry of Education. The financial information and the five-year capital expenditures forecasts of municipalities come from the Financial Information Returns supplied by the municipalities to the Ministry of Municipal Affairs. The Board now relies on information, generated by the Municipal Analysis and Retrieval System (MARS) computer program of the Ministry of Municipal Affairs, to assess the debt capacities of municipalities. Timely filing of the Financial Information Return by municipalities with the Ministry of Municipal Affairs will be imperative to enable MARS to provide the financial information required by the Board for establishing quotas/debt limits for current year municipal capital works programmes. Delay in receiving financial information could result in the approval of a project application being delayed.

Individual applications for capital projects are submitted to the Board for approval. These may be for each individual project or for a class or classes of work (bulk) without specifying any particular project. The Board also considers "bulk" approvals for municipal drains under the Drainage Act and local improvements under Sections 11 and 12 of the Local Improvement Act.

When directed by the Board, notice of the proposed project must be given pursuant to section 149, sub-section (3) of the Municipal Act, R.S.O. 1980, chapter 302, as amended. Where no objections are received within the time limit specified, the Board will approve the application without a public hearing. A municipality may not proceed to advertise if, in the Board's opinion, the project could not be undertaken within the financial capacity of the municipality. If objections are received, the Board normally holds a public hearing, unless the Board determines that the objections are insufficient to warrant a public hearing. Detailed procedure manuals setting out the Board's requirements for applications for the approval of capital expenditures, imposition of special rates, borrowing in excess of 70 percent of a municipality's current outstanding receivables, the use of surplus debenture funds, etc., have been sent to all

municipalities, school boards and conservation authorities for guidance. Copies of those manuals are available from the Board.

The Board also acts as arbitrator or appeal body with respect to a number of other financial matters. These include the apportionment of shared costs for school, county, region, homes for the aged, welfare boards and planning purposes. It should be noted that consideration is being given to an amendment to the Education Act which proposes changes to the appeals process for shared school-costs apportionment. If the Bill is enacted as presently drafted appeals to the Board will be eliminated. Also, the Board may be requested to review the equalization factors and equalized assessments as published annually by the Ministry of Revenue.

As can be seen from the foregoing, which is by no means an exhaustive list of the Board's approval functions pertaining to local government finance, the Board has been given a number of legislative powers to ensure not only the financial viability of local government entities but also the welfare of ratepayers which councils seek to charge for specific purposes. The Board believes that the generally good credit rating and favourable borrowing rate enjoyed by most municipalities and school boards in Ontario can in part be attributed to the Board's role.

TRANSFER OF PROVINCIAL WATER AND SEWAGE PROJECTS TO MUNICIPALITIES

During the past three years, the Ministry of the Environment has been negotiating with a number of municipalities to transfer ownership of sewage and water works projects from the province to the municipality.

With the acquisition of the ownership of such projects, the municipalities have to assume the outstanding capital cost and any deficits accumulated from the time the projects became operational. This normally requires the Board's approval under Section 64 of the Ontario Municipal Board Act.

In order to accommodate the long-term debt, municipalities must have sufficient debt capacity. To service that debt, the municipal councils may be required to review the current rate structures for water and sewage systems to ensure that sufficient revenues will be generated from special water works and sewage rates.

SPECIAL SEWER AND WATER RATES UNDER SECTION 218 OF THE MUNICIPAL ACT

Section 218 of the Municipal Act, R.S.O. 1980, Chapter 302, as amended, authorizes the municipal councils, with the approval of this Board, to impose special sewer and water works rates to raise the capital costs of sewage and water works projects.

Sub-section (7) of Section 218, prescribes the method for the computation of such special rates but does not provide for the imposition of a special rate on a 'per lot basis'.

In a Supreme Court case between Allan Grey and The Corporation of the Township of Plympton, Mr. Justice Barr on May 13, 1987, has ruled the Township's by-law imposing a rate on a 'per lot basis' to be ultra vires.

The Board will, therefore, not be in a position to approve the passing of by-laws by a municipal council imposing a special rate on a per lot basis under Section 218 of the Municipal Act.

OMB PARTICIPATION IN JOINT BOARDS

Some undertakings or projects may be subject to hearings required under more than one statute to be held by more than one tribunal. The Consolidated Hearings Act 1981, directs the Chairman of the Environmental Assessment Board and the Chairman of the Ontario Municipal Board to establish a joint Board to hear some of these projects. A schedule to the Act and Regulation 688/81 specifies which statutes or parts of statutes are affected.

Members of the OMB participated in three Joint Board matters in 1987. They involved a proposed energy from waste project in Brampton and proposed boundary changes to the Keele Valley landfill site. In addition, the Joint Board sat for approximately 85 hearing days during 1987 on the issue of the proposed Halton sanitary landfill site. The Brampton and Halton hearings continue into 1988.

FINANCIAL SUMMARY

REVENUE

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. The fees collected by the Board are paid to the Treasurer of Ontario.

Fees collected in the 1987 calendar year are as follows:

Application, Appeal or Referral Type	Fees Collected
Capital Expenditures	\$517,526.30
Planning Act Matters	\$300,680.00
Assessment Appeals	\$130,333.00
Miscellaneous	\$ 20,531.17
TOTAL	\$969,070.47

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

The Board's expenditures in the 1987 calendar year are as follows:

Account Item	Ar	mount
Salary & Wages	\$3	3,558,267
Employee Benefits	\$	625,702
Transportation & Communications	\$	397,718
Services	\$	83,752
Supplies & Equipment	\$	78,795
Transfer Payments	\$	7,500
TOTAL EXPENDITURES	\$4	1,751,734

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

Assessment Act

Barrie-Innisfil Annexation Act, 1981

Barrie-Vespra Annexation Act, 1984

Beach Protection Act

Cemeteries Act

Conservation Authorities Act

Consolidated Hearings Act

District Municipality of Muskoka Act

District Welfare Administration Boards Act

Education Act

Environmental Assessment Act

Evidence Act

Expropriations Act

Haliburton Act

Homes for the Aged and Rest Homes Act

Housing Development Act

Legal Aid Act

Legislative Assembly Act

Liquor Licence Act

Local Improvement Act

Mining Tax Act

Moosonee Development Area Board Act

Municipal Act

Municipal Affairs Act

Municipal Boundary Negotiations Act, 1981

Municipal Corporations Quieting Orders Act

Municipal Elections Act

Municipal Franchises Act

Municipal Tax Assistance Act

Municipality of Metropolitan Toronto Act

Niagara Escarpment Planning and Development Act

Ontario Education Capital Aid Corporation Act

Ontario Heritage Act

Ontario Highway Transport Board Act

Ontario Municipal Board Act

Ontario Municipal Improvement Corporation Act

Ontario Northland Transportation Commission Act

Ontario Planning and Development Act

Ontario Telephone Development Corporation Act

Ontario Universities Capital Aid Corporation Act

Ontario Water Resources Act

County of Oxford Act

Pits and Quarries Control Act

Planning Act

Power Corporation Act

Public Commercial Vehicles Act

Public Libraries Act

Public Service Works on Highway Act

Public Transportation and Highway Improvement Act

Public Utilities Act

Railways Act

Regional Municipality of Durham Act

Regional Municipality of Haldimand-Norfolk Act

Regional Municipality of Halton Act

Regional Municipality of Hamilton-Wentworth Act

Regional Municipality of Niagara Act

Regional Municipality of Ottawa-Carleton Act

Regional Municipality of Peel Act

Regional Municipality of Sudbury Act

Regional Municipality of Waterloo Act

Regional Municipality of York Act

Rental Housing Protection Act, 1986

Registry Act

Regulations Act

St. Lawrence Parks Commission Act

Shoreline Property Assistance Act

Telephone Act

Territorial Division Act

Tile Drainage Act

Trees Act

Trustee Act

Note: In addition to this list (which may not be complete), there are in excess of 100 private Acts for individual municipalities which confer specific jurisdiction and authority on the Board.

MEMBERS OF THE ONTARIO MUNICIPAL BOARD

Member **Date of Appointment** H.E. Stewart, Chairman April 1, 1974 Chairman since September 1, 1979 D.S. Colbourne, Vice-Chairman September 3, 1968 Vice-Chairman since June 1, 1977 P.M. Brooks, Q.C., Vice-Chairman November 1, 1973 Vice-Chairman since November 13, 1980 H.H. Lancaster, Q.C., Vice-Chairman September 7, 1970 Vice-Chairman since June 30, 1981 D.H. McRobb, Vice-Chairman January 3, 1978 Vice-Chairman since October 22, 1982 A.B. Ball January 1, 1974 H.W. Kelly, Q.C. September 3, 1974 Retired September 30, 1987 J.A. Wheler, Q.C. September 3, 1974 A.J.L. Chapman, Q.C. September 30, 1974 C.G. Charron, Q.C. February 1, 1975 K.D. Bindhardt January 2, 1976 P.G. Wilkes January 16, 1978 V.M. Singer, Q.C. September 1, 1978 M.D. Henderson September 1, 1978 Deceased July 19, 1987 D.L. Santo March 10, 1980 D.M. Rogers, Q.C. March 10, 1980 T.F. Baines, Q.C. March 17, 1980 S.R. Cole October 8, 1981 G. Campbell, Q.C. October 8, 1981 Retired August 31, 1987 G.T. Dobbs October 8, 1981 G.M. Hobart October 8, 1981 D.W. Middleton October 8, 1981 J.R. Mills May 10, 1982 P.H. Howden, Q.C. July 19, 1982 E.F. Crossland November 1, 1982 G.A. Harron December 1, 1982 M.A. Rosenberg, Q.C. January 3, 1983 R.D.M. Owen January 4, 1983 R.W. Rodman March 14, 1983 G.I. Thomson, Q.C. May 2, 1983

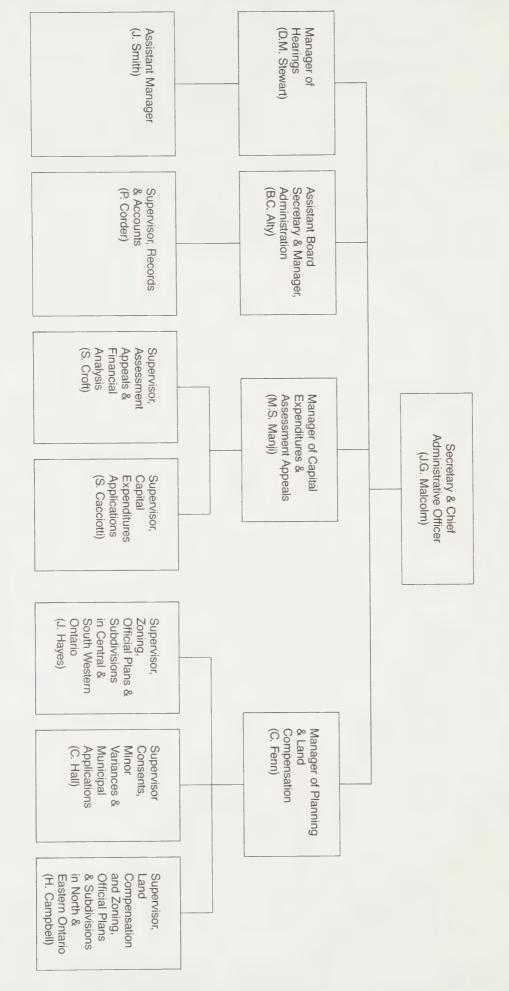
January 1, 1984

February 1, 1984

Brian W. McLoughlin

René Chartier

ADMINISTRATION OF THE ONTARIO MUNICIPAL BOARD



			HEARI	NGS					
	HEARINGS SCHEDULED				RINGS		NUMBER DULED	OF FILES	ARD
	1987	1986	1985	1987	1986	1987	1986	1987	1986
Planning and Municipal	1975	1827	1643	1480	1425	2675	2422	2036	1914
Assessment Appeals	472	479	885	333	351	1266	851	995	655
Land Compensation	39	56	80	28	40	42	96	30	79

NOTE: Previous annual reports have reported only the hearings and files scheduled. For comparison purposes the number of hearings actually heard and the number of files involved will also be reported.

2615 1843 1820 3986

5 2 4

Consolidated Hearings

TOTAL

Chart E

	WORKLOA	D STATISTICS		
	PE OF APPLICATION, APPEAL OR FERRAL RECEIVED BY THE O.M.B.	1987	1986	1985
1.	Assessment Appeals	1079	934	1079
2.	Capital Expenditures of Municipalities and School Boards	1511	1368	1598
3.	Zoning By-law Appeals/Approvals	652	614	553
4.	Appeals from Councils' Refusal to Amend Zoning By-laws	177	164	125
5.	Minor Variance Appeals	704	632	508
6.	Consent Appeals	616	603	415
7.	Official Plans	132	155	139
8.	Plans of Subdivision	37	33	37
9.	Miscellaneous	159	94	123
10.	Land Compensation	31	37	46
11.	Consolidated Hearings	2	2	5
	TOTAL	5100	4636	4628

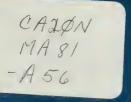
GRAND TOTAL:	SUB TOTAL:	Algoma Cochrane Kenora Manitoulin Nipissing Parry Sound Rainy River Sudbury Thunder Bay Timiskaming	SUB TOTAL:	Brant Bruce Bruce Dufferin Elgin Essex Frontenac Grey Haliburton Hastings Huron Kent Lamark Leeds and Grenville Lennox and Addington Middlesex Northumberland Oxford Perth Peterborough Perth Peterborough Perince Edward Renfrew Simcoe Stormont, Dundas & Glengarry Victoria Wellington	SUB TOTAL:	Regions Metroplitan Toronto Durham Haldimand-Norfolk Halton Hamilton-Wentworth Niagara Ottawa-Carleton Peel Sudbury Waterloo York Muskoka	MUNICIPALITIES
1379	99	N 6 5 8 5 7 8 5 8 5 8 5 8 5 8 5 8 5 8 5 8 5	669	39 30 27 30 30 30 30 30 30 30 42 42 42 42 42 42 42 42 42 42 42 42 42	611	124 37 45 45 68 68 68 68 68 68 68 68	APPLICATIONS FOR CAPITAL EXPENDITURE APPROVAL
8040	114	27 18 18 48	879	118 14 4 4 111 112 62 62 62 62 7 7 7 7 7 7 7 7 7 7 7 7 7	7047	1839 404 404 59 406 69 2626 240 275 19 232	ASSESSMENT
1002	57	100000000000000000000000000000000000000	419	35 5 5 6 6 7 7 7 7 2 2 3 5 5 6 6 7 7 7 7 8 6 7 7 7 8 6 7 7 7 8 6 7 7 7 8 6 7 7 7 8 6 7 7 7 8 6 7 8 6 7 8 7 7 8 6 7 8 7 8	526	70 39 47 47 43 43 43 43 43	ZONING, OFFICIAL PLANS & SUBDIVISION APPEALS & REFERRALS
608	7	4 4 1	284	10 10 10 10 10 10 10 10 10 10 10 10 10 1	317	65 130 130 147 185 185 185 185 185 185 185 185 185 185	CONSENTS TO SEVER
704	11	ασ4. ω [‡]	170	10002 1 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	523	313 20 20 112 112 114 112 223 223 223 31 31	VARIANCES



Ontario Municipal Board Tel: 416-598-2266

Fax 416-979-8808

180 Dundas St. West Toronto, Ontario M5G 1E5





Ontario Municipal Board

81st ANNUAL REPORT

January 1, 1986 to December 31, 1986

H.E. Stewart Chairman

J.G. Malcolm Secretary and Chief Administrative Officer



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Vous pouvez vous procurer le présent document en vous addressant au:

Bureau des Renseignements Commission des affaires municipale de l'Ontario 180 Rue Dundas Ouest Toronto, Ontario M5G 1E5

Téléfone: 416-598-2266

Ontario Municipal Board

May 20, 1987

416/598-2266

180 Dundas St. West Toronto, Ontario M5G 1E5

The Honourable Ian G. Scott, Q.C. Attorney General
Ministry of the Attorney General
18 King Street East
18th Floor
TORONTO, Ontario
M5C 1C5

Dear Mr. Attorney General:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1986 calendar year.

As was the case with the 1985 report, the Annual Report for 1986 is being utilized as an information document on the role and responsibilities of the Ontario Municipal Board. A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, schools, universities and such in English and French.

Signature

H.E. Stewart Chairman

Signature

J.G. Malcolm Secretary and Chief Administrative Officer

JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts. Most of the powers bestowed upon the Board in 1932 have been retained by the Board to this date although many other statutes have assigned jurisdiction or authority on the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisdiction or authority on the Board is given in Chart A, although many of those listed result in infrequent applications or appeals.

When the Board holds a hearing, it is governed by any applicable statute, but it is also subject to the rules of natural justice and the requirements of the Statutory Powers Procedure Act.

The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm of which this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedents. Administrative boards, such as this Board, administer what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion.

In matters of law and jurisdiction, there is provision for appeal from decisions of the Board to the courts. In a limited number of matters dealt with by the Board, there is a provision for appeal from the Board's decision to Cabinet by way of a petition to the Lieutenant-Governor-in-Council.

The Board has authority under Section 42 of the Ontario Municipal Board Act to review any of its decisions or orders to determine if they should be varied. This authority is generally exercised when one or more of the following occurs:

- error in jurisdiction or procedural defect
- fraud or misrepresentation by any party or witness
- manifest error of decision or fact
- changed circumstances or new evidence
- other good and sufficient reason

MEMBERS OF THE BOARD

As of December 31, 1986, there were 32 Members of the Board, including the Chairman and Vice-Chairmen. Members of the Board during 1986 are listed on Chart B.

Members are appointed by the Lieutenant-Governor-in-Council and serve on a full-time basis and are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions. Approximately half of the Members are lawyers with other Members being accountants, engineers, architects, planners and municipal administrators.

The Board wishes to acknowledge the contribution of W.H.J. Thompson, Q.C., E.A. Seaborn and N.L. Cheeseman. Mr. Cheeseman, Member, was appointed to the Assessment Division of the Board, for a three year term that ended January 4, 1986. Mr. E.A. Seaborn, a Member of the Board for eleven-and-a-half years, retired on April 30, 1986. Mr. Thompson, who served as a Vice-Chairman for nearly ten of the twenty years he was with the Board, retired on October 31, 1986.

ADMINISTRATION OF THE BOARD

As of December 31, 1986, the Board had a staff complement of 75. The staff of the Board provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings, and the preparation of Board orders and decisions.

From August 5, 1985 until January 1986 Mrs. B.C. Alty acted as Board Secretary and Chief Administrative Officer. Effective February 1, 1986, J.G. Malcolm was appointed Secretary and Chief Administrative Officer of the Board. Mr. Malcolm was formerly Manager, Plans Administration Branch, Ministry of Municipal Affairs.

The offices of the Board are located at 180 Dundas Street West, Toronto, M5G 1E5.

The organization of the Board's staff is shown on Chart C.

HEARINGS

Members of the Board spent 4955 days at 1820 hearings dealing with 2652 files during 1986. Chart D provides information in respect of hearings for the various types of matters which were heard by the Board for each of the last three years.

Although two Members constitute a quorum for Ontario Municipal Board hearings, more than two Members can be assigned to a hearing as long as the number of Members is uneven. The Chairman has authority, however, to appoint only one Member to hear and decide on any application. This authority is often used for hearings involving minor variance or consent appeals under the Planning Act. Hearing length varies from file to file, with some matters scheduled for a number of months and some only for a portion of a day.

It is the practice of the Board to conduct hearings in the municipality from which the application originated and generally the only hearings held by the Board at their offices in Toronto involve Mississauga and the Metropolitan Toronto area. This requires extensive travel by Members of the Board to all parts of Ontario—as far north as Moosonee, as far south as Pelee Island, as far west as Kenora, and as far east as Hawkesbury. The Board appreciates the co-operation of municipalities in providing hearing accommodation.

During 1986, hearings for planning matters took 69 percent of the Members' hearing time. Assessment appeals required 14 percent, land compensation required 6 percent and hearings held under the Consolidated Hearings Act took 7 percent. Other matters required the remaining 4 percent. Ten French Language hearings were held by the Board in 1986.

DECISIONS OF THE BOARD

Selected decisions of the Board may be found in the Ontario Municipal Board Reports published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. A subscription to decisions of the Board is available as follows. The cost will remain as stated through 1987:

Full subscription	\$300 per annum
Assessments only	\$100 per annum
Land Compensation only	\$ 50 per annum
Subscription excluding	
Assessments and Land Compensation	\$200 per annum

Copies of individual decisions may be obtained on request from the information office of the Board at a cost of .50¢ per page (less than 6 pages – no charge).

COMPUTER SYSTEM

The Board's plans for an automated information system were again delayed in 1986. A fully integrated office automation system was tested by the Ministry of the Attorney General's Computer and Telecommunications Services Branch. It was hoped the system would enhance the Board's existing wordprocessing capabilities and provide electronic mail between key Board areas. The equipment was to have driven the automated information system. Unfortunately it did not perform as expected and the testing process took until September.

At that point it was decided to undertake a detailed design for an automated information system only, based on function specifications prepared for the Board by Price Waterhouse. At year end, this was ahead of schedule and near completion. Arrangements were being made for the programming to be undertaken based on either a mini or mainframe computer.

RULES OF PRACTICE AND PROCEDURE

The 80th Annual Report noted that Regulation 722 made under Section 90 of the Ontario Municipal Board Act and Regulation 316 made by the former Land Compensation Board were consolidated and redrafted in 1985 and put forward for public review.

In addition, representatives of the Board visited Windsor, Ottawa and Sudbury to hear public submissions concerning the rules. These hearings were advertised in the local press.

In Sudbury and Ottawa, French language notice was also provided.

The Board would like to thank those who made submissions and acknowledge especially invaluable input from representatives of the Canadian Bar Association – Ontario.

The much revised draft rules were then finally reviewed and adopted by the Board on November 14, 1986.

By the end of November, the rules were referred to the Statutory Powers Procedure Rules Committee which must review the rules pursuant to Section 28 of the Statutory Powers Procedure Act before their promulgation. It is hoped that the revised rules will be finalized and published during 1987.

WORKLOAD AND PROCESS TIME

Chart E provides a summary of the number of matters received by the Board and Chart F illustrates the number of Board Orders issued.

A review of Chart E indicates that the Board's overall workload, as measured by the number of files received, was almost identical to its 1985 workload. The nature of the work changed significantly however.

The Board experienced a 13% reduction in assessment files. The actual number of appeals, 9,721, was 60% greater than 1985. However, many were multiple appeals dealing with a single issue. These are considered by the Board as one "file" and can be dealt with at a single hearing.

There was also a reduction of 14% in the number of capital expenditure files opened by the Board.

Planning on the other hand, categories 3 to 8 on Chart E, significantly increased. The 1986 total was 24% higher than in 1985. The increase did not occur throughout the year but was concentrated in the last six months. This can be directly attributed to the dramatic upswing in the province's development and redevelopment activity. As planning applications occupied 69 percent of the 1986 total member hearing time, the Board is concerned about the impact this increase could have on overall process time.

The Board continues to strive to bring as many applications and appeals as possible to a hearing within two to three months from receipt. The time taken from a matter being heard, until the Board's decision issues can vary considerably. Oral decisions may issue immediately upon the conclusion of the hearing. A complicated and lengthy hearing usually results in a reserved decision which may not issue for several weeks. The length of time required for a reserved decision to issue is subject to many factors other than length and complexity of the hearing, however, the Board strives to issue most decisions within a month of the hearing's conclusion.

In the 80th annual report, December 1985 was used as an example. It was noted that a number of application types fell within the 60 to 90 day target. During December, 1986, the receipt to hearing time of these application types crept upward to approximately 3 months. This is attributable to the large upswing in planning matters filed with the Board in the last half of the year. The Board's workload will be carefully monitored throughout 1987 as will any delays in bringing matters to a hearing.

Recognizing that more than thirty days' notice of a hearing date must normally be given to all interested persons, the two to three month time period from date of submission to date of hearing represents expeditious service to municipalities and other parties involved in matters before the Board.

This time frame would not be possible without:

- complete and accurate submission of material from municipalities which avoids
 delays incurred by the exchange of correspondence. In particular, the submission
 forms supplied by the Board for use on appeals related to zoning by-laws,
 consent applications and minor variance applications have resulted in more
 complete documentation provided to the Board.
- recognition by legal offices of the Board's desire to maintain a more efficient approach and generally give the necessary co-operation to the Board.
- the willingness of the Members to do their part in the whole process. Their efforts should be recognized in that it is a fairly common practice to sit late or sometimes start early in order to avoid putting a hearing over to be finished at a later date.
- · commitment on the part of staff of the Board.

The range of time necessary for the actual conduct of the hearings in 1986 ranged from the 14 weeks necessary to hear the City of Toronto's Railway Lands applications to individual applications throughout the Province which the Board heard and decided in a half day.

In addition, two of the Board Members participated in a consolidated hearing dealing with route selection for Hydro lines (see section titled OMB Participation in Joint Boards) which occupied approximately 110 hearing days in 1986.

ASSESSMENT APPEALS

Of the 9,721 assessment appeals received by the Board during the year, forty-seven percent were resolved. The remaining 5,174 appeals, mainly concerned condominiums. As legal matters affecting condominium assessment are pending before the Courts, the Board was unable to resolve these remaining appeals.

Few of the previous year's appeals, awaiting Court decisions, were resolved by the courts in 1986. As a result, about 44,000 appeals await the determination of legal issues. Appeals with respect to the legality of the authorization of agents or corporations to initiate the filing of appeals before receiving the consent or approval of the assessed person have been heard by the Courts but the Judges' decisions have not issued. Presumably the final judicial decisions will permit the Board to deal administratively with these appeals without further hearings.

At the year end, about 10,000 appeals (received in 1986 and the previous years) were proceeding, were scheduled for hearings or, were pending decisions. The Board Members have continued their efforts to expeditiously resolve the remainder of the backlog and the current appeals through the hearing process. The Board staff have also continued their good relations with the public, legal counsel and tax agents in processing the appeals for the Board's hearings.

The resolution of the backlog of appeals inherited by the Board in 1983 from the County and District Courts is good news for those responsible for the budgets in Ontario municipalities. They are now better able to forecast tax revenue given a stable assessment roll. A large number of property owners will be saved the worry of filing protective appeals. Owners were compelled to appeal their assessment, year after year, while they awaited a decision on appeals for past years.

The Board is pleased with the role played by its Members and staff in this major effort to resolve the assessment appeals backlog. The Board acknowledges the co-operation received from the Assessment Review Board, the Regional Assessment Commissioners and their staff, members of the legal profession and tax agents.

PLANNING AND OTHER MATTERS

The Ontario Municipal Board deals with a wide variety of planning matters submitted to the Board under the Planning Act. These include minor variances from municipal by-laws, consents to sever land, official plans and amendments, zoning by-law appeals and plans of subdivision and condominium. In addition, the Board is charged with the responsibility of approving various applications from municipalities under the Municipality Act, City and Regional Acts and other statutes such as the Education Act and the Ontario Heritage Act. These applications involve a wide variety of matters including the redivision or new division of a municipality into wards, the establishment or enlargement of business improvement areas, and heritage conservation districts. The Board also establishes, alters or dissolves municipal urban service areas in which fire, police, sewage, water, transportation or street lighting services can or may be provided.

There are also many other applications which are not of a planning or municipal nature for which the Board is also responsible. These applications are submitted to the Board pursuant to various statutes. For example, under the Pits and Quarries Control Act, the Minister of Natural Resources can refer appeals against applications to open, establish, or operate a pit or quarry. Upon holding a hearing the Board submits a report to the Minister of Natural Resources which recommends whether the pit and quarry licence should be issued or revoked.

The Public Transportation and Highway Improvement Act authorizes the Board, upon application by municipalities, to designate county roads as controlled access. The same legislation provides for Ministry of Transportation and Communications applications to the Board to close roads which exit from or enter onto provincial highways.

Under the Province's Railways Act, the Board has given consideration to various applications from the Toronto Transit Commission concerning the operation of their public transportation system. As well, the Board has heard under this legislation, applications for the operation of privately owned railways.

The Conservation Authorities Act provides that the Conservation Authorities apply to the Board for the approval of per diem rates, travel allowances for their members and/or payments of honorariums to their Chairmen.

The Board could be called upon to hear approximately 60 different types of these "other" applications.

In the past year the Board and its staff have continued to participate in planning conferences and seminars to engage in dialogue with individuals and groups involved in the planning process. Discussions have also taken place with client groups in an effort to revise administrative and procedural requirements to assist in the efficient processing of applications. For example, the Board approves municipal road closings where the road intersects a provincial highway. The procedures relating to this process were reviewed and revised with the assistance of the Ministry of Transportation and Communications during 1986.

The Board has continued to meet with officials from the Ministry of Municipal Affairs to discuss issues arising from the Planning Act legislation. As a result of these discussions, the Ministry has agreed to incorporate several of the Board's suggestions into the draft amendments being proposed to the Planning Act. As new issues arise, the Board will continue to liaise with the Ministry and its other client groups.

LAND COMPENSATION

The Expropriations Act empowers the Board to determine the amount of compensation to be paid by the statutory (expropriating) authority to the expropriated party.

Compensation may be awarded for the land expropriated, damages and injurious affection. Claims for damages may take the form of disturbance damages for business loss, personal loss, relocation costs and other costs that flow directly from the expropriation. While a claim for injurious affection may include personal business damages, it can also be awarded for the reduction in market value of the remaining or adjoining lands.

This year there has been a further reduction in the number of new applications. Thirty-seven new applications were received in 1986.

The number of pending files also decreased in 1986 in response to efforts made by the Board's staff to bring long-outstanding applications to a conclusion. Pending files are regularly monitored to determine whether the parties are ready to proceed.

NEW MATTERS

The Rental Housing Protection Act received Royal Assent on July 10, 1986.

The appeal provisions of this new statute give the Ontario Municipal Board jurisdiction to hear appeals from a decision of a municipal council with respect to the conversion of rental housing to another use or the demolition or renovation of such rental housing.

Ontario Regulation 434/86 made under the Rental Housing Protection Act, 1986, details the requirement and procedural aspects of the legislation. Two appeals under section 7(12) of this legislation were made to the Board during 1986.

During 1986 the Board also received for consideration the first applications under subsections 41(6) and 50(9) of the Planning Act. These subsections provide for the Board's determination of the value of land to be conveyed to a municipality for park purposes.

CAPITAL EXPENDITURES OF MUNICIPALITIES AND SCHOOL BOARDS

The Ontario Municipal Board is charged with the responsibility for approving a number of financial matters related to local government.

Section 64 of the Ontario Municipal Board Act requires the Board to approve all undertakings by municipalities, school boards (other than separate school boards) and local boards that are to be financed by revenues of subsequent years extending beyond the term of the incumbent municipal council or by the issue of debentures. Undertakings to be financed from current funds during the term of the council are excluded.

In order to carry out this function, the Board has developed certain criteria for establishing the borrowing capabilities of these local government entities. With the assistance of analysis performed in the Ministries of Education and Municipal Affairs, the Board has chosen a percentage of revenue fund expenditures which it considers appropriate for annual long-term commitments. For municipalities, that percentage is twenty. The Board considers that a school board should not commit more than 10 percent of its total revenue fund expenditures to capital formation. This lower rate for school boards is necessary as approximately 90 percent of school board expenditures are used to finance operating costs.

The method for calculating the debt capacities of municipalities and school boards is given in detail in the Board's publication entitled "The Role of the Ontario Municipal Board with respect to undertakings involving long-term commitments by Ontario Municipalities and School Boards". Copies of this publication are available from the Board.

The financial information for school boards is supplied directly to the Board by the Ministry of Education. The financial information and the five-year capital expenditures forecasts of municipalities come from the Financial Information Returns supplied by the municipalities to the Ministry of Municipal Affairs. The Board now relies on information, generated by the MARS computer program of the Ministry of Municipal Affairs, to assess the debt capacities of municipalities. Timely filing of the Financial Information Return by municipalities with the Ministry of Municipal Affairs will be imperative to enable (MARS) Municipal Analysis and Retrieval System to provide the financial information required by the Board for establishing quotas/debt limits for current year municipal capital works programmes. Delay in receiving financial information could result in the approval of a project application being delayed.

Individual applications for capital projects are submitted to the Board for approval. These may be for each individual project or for a class or classes of work (bulk) without specifying any particular project. The Board also considers ''bulk'' approvals for municipal drains under the Drainage Act and local improvements under Sections 11 and 12 of the Local Improvement Act.

When directed by the Board, notice of the proposed project must be given pursuant to section 149, sub-section (3) of the Municipal Act, R.S.O. 1980, chapter 302, as amended. Where no objections are received within the time limit specified, the Board will approve the application without a public hearing. A municipality may not proceed to advertise if, in the Board's opinion, the project could not be undertaken within the financial capacity of the municipality. If objections are received, the Board normally holds a public hearing, unless, the Board determines that the objections are insufficient to warrant a public hearing.

Detailed procedure manuals setting out the Board's requirements for applications for the approval of capital expenditures, imposition of special rates, borrowing in excess of 70 percent of a municipality's current outstanding receivables, the use of surplus debenture funds, etc., have been sent to all municipalities, school boards and conservation authorities for guidance. Copies of those manuals are available from the Board.

The Board also acts as arbitrator or appeal body with respect to a number of other financial matters. These include the apportionment of shared costs for school, county, region, homes for the aged, welfare boards and planning purposes. Also, the Board may be requested to review the equalization factors, and equalized assessments as published annually by the Ministry of Revenue.

As can be seen from the foregoing, which is by no means an exhaustive list of the Board's approval functions pertaining to local government finance, the Board has been given a number of legislative powers to ensure not only the financial viability of local government entities but also the welfare of ratepayers which councils seek to charge for specific purposes. The Board believes that the generally good credit rating and favourable borrowing rate enjoyed by most municipalities and school boards in Ontario can in part be attributed to the Board's role.

OMB PARTICIPATION IN JOINT BOARDS

Some undertakings or projects may be subject to hearings required under more than one statute to be held by more than one tribunal. The Consolidated Hearings Act 1981, directs the Chairmen of the Environmental Assessment Board and the Ontario Municipal Board to establish a joint Board to hear some of these projects. A schedule to the Act and Regulation 688/81 specify which statutes or parts of statutes are affected.

Members of the OMB participated in three Joint Board matters in 1986. They involved a proposed waterworks project for the East Lambton Water Supply System and a proposed water and sewer project for the Township of Charlottenburgh. The third issue was one of route selection for Hydro's 500kv lines eminating from the Bruce Nuclear Power Generating Plants. At that hearing, the Members sat over 120 days, heard 329 witnesses, and received more than 25,000 pages of transcript evidence.

The Board will participate in another major Joint Board in 1987, which will address a sanitary landfill issue in the Region of Halton.

During November, 1986, the OMB hosted a one day seminar at the Board's offices for OMB and EAB members. The result was a productive exchange of ideas and views on the legislative mandates of both boards and the conduct of consolidated hearings.

FINANCIAL SUMMARY

REVENUE

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. The fees collected by the Board are paid to the Treasurer of Ontario.

Fees collected in the 1986 calendar year are as follows:

Application, Appeal or Referral Type	Fees Collected		
Capital Expenditures	\$382,384.75		
Planning Act Matters	\$237,020.00		
Assessment Appeals	\$ 93,380.00		
Miscellaneous	\$ 28,687.75		
TOTAL	\$741,472.50		

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

The Board's expenditures in the 1986 calendar year are as follows:

Account Item Am		mount
Salary & Wages	\$3	3,739,600
Employee Benefits	\$	584,300
Transportation & Communications	\$	429,900
Services	\$	328,900
Supplies & Equipment	\$	92,700
Transfer Payments	\$	5,000
TOTAL EXPENDITURES	\$5	5,180,500

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

Assessment Act

Barrie-Innisfil Annexation Act, 1981

Barrie-Vespra Annexation Act, 1984

Beach Protection Act

Cemeteries Act

Conservation Authorities Act

Consolidated Hearings Act

District Municipality of Muskoka Act

District Welfare Administration Boards Act

Education Act

Environmental Assessment Act

Evidence Act

Expropriations Act

Haliburton Act

Homes for the Aged and Rest Homes Act

Housing Development Act

Legal Aid Act

Legislative Assembly Act

Liquor Licence Act

Local Improvement Act

Mining Tax Act

Moosonee Development Area Board Act

Municipal Act

Municipal Affairs Act

Municipal Boundary Negotiations Act, 1981

Municipal Corporations Quieting Orders Act

Municipal Elections Act

Municipal Franchises Act

Municipal Tax Assistance Act

Municipality of Metropolitan Toronto Act

Niagara Escarpment Planning and Development Act

Ontario Education Capital Aid Corporation Act

Ontario Heritage Act

Ontario Highway Transport Board Act

Ontario Municipal Board Act

Ontario Municipal Improvement Corporation Act

Ontario Northland Transportation Commission Act

Ontario Planning and Development Act

Ontario Telephone Development Corporation Act

Ontario Universities Capital Aid Corporation Act

Ontario Water Resources Act

County of Oxford Act

Pits and Quarries Control Act

Planning Act

Power Corporation Act

Public Commercial Vehicles Act

Public Libraries Act

Public Service Works on Highway Act

Public Transportation and Highway Improvemenmt Act

Public Utilities Act

Railways Act

Regional Municipality of Durham Act

Regional Municipality of Haldimand-Norfolk Act

Regional Municipality of Halton Act

Regional Municipality of Hamilton-Wentworth Act

Regional Municipality of Niagara Act

Regional Municipality of Ottawa-Carleton Act

Regional Municipality of Peel Act

Regional Municipality of Sudbury Act

Regional Municipality of Waterloo Act

Regional Municipality of York Act

Rental Housing Protection Act, 1986

Registry Act

Regulations Act

St. Lawrence Parks Commission Act

Shoreline Property Assistance Act

Telephone Act

Territorial Division Act

Tile Drainage Act

Trees Act

Trustee Act

Note: In addition to this list (which may not be complete), there are in excess of 100 private Acts for individual municipalities which confer specific jurisdiction and authority on the Board.

MEMBERS OF THE ONTARIO MUNICIPAL BOARD

	THE BOATE
Member	Date of Appointment
H.E. Stewart, Chairman	April 1, 1974
WILL Thomas O.C. M. Co.	Chairman since September 1, 1979
W.H.J. Thompson, Q.C., Vice-Chairman	July 1, 1966
	Vice-Chairman since June 1, 1977 Retired October 31, 1986
D.S. Colbourne, Vice-Chairman	September 3, 1968
	Vice-Chairman since June 1, 1977
P.M. Brooks, Q.C., Vice-Chairman	November 1, 1973
H H Langaston O.C. Vice Obel	Vice-Chairman since November 13, 1980
H.H. Lancaster, Q.C., Vice-Chairman	September 7, 1970
D.H. McRobb, Vice-Chairman	Vice-Chairman since June 30, 1981 January 3, 1978
The management of the manageme	Vice-Chairman since October 22, 1982
A.B. Ball	January 1, 1974
H.W. Kelly, Q.C.	September 3, 1974
J.A. Wheler, Q.C.	September 3, 1974
E.A. Seaborn	September 9, 1974
All Charman O.O.	Retired April 30, 1986
A.J.L. Chapman, Q.C. C.G. Charron, Q.C.	September 10, 1974
K.D. Bindhardt	February 1, 1975
P.G. Wilkes	January 2, 1976
V.M. Singer, Q.C.	January 16, 1978 September 1, 1978
D.L. Santo	March 10, 1980
D.M. Rogers, Q.C.	March 10, 1980
T.F. Baines, Q.C.	March 17, 1980
S.R. Cole	October 8, 1981
G. Campbell, Q.C.	October 8, 1981
G.T. Dobbs	October 8, 1981
G.M. Hobart	October 8, 1981
D.W. Middleton	October 8, 1981
J.R. Mills	May 10, 1982
P.H. Howden, Q.C.	July 19, 1982
E.F. Crossland G.A. Harron	November 1, 1982
M.A. Rosenberg, Q.C.	December 1, 1982
R.D.M. Owen	January 3, 1983 January 4, 1983
N.L. Cheeseman	January 4, 1983
	(3 year term concluded January 4, 1986)
R.W. Rodman	March 14, 1983
G.I. Thomson, Q.C.	May 2, 1983
Brian W. McLoughlin	January 1, 1984
René Chartier	February 1, 1984

Chart C

		HEA	RINGS			
	HEARINGS SCHEDULED			HEARINGS HELD	NUMBER OF SCHEDULED	FILES HEARD
	1986	1985	1984	1986	1986	1986
Planning and Municipal	1827	1643	1279	1425	2422	1914
Assessment Appeals	479	885	1173	351	851	655
Land Compensation	56	80	87	40	96	79
Consolidated Hearings	5	7	9	4	5	4
TOTAL	2357	2615	2548	1820	3374	2652

NOTE: Previous annual reports have reported only the hearings and files scheduled. For comparison purposes the number of hearings actually heard and the number of files involved will also be reported.

Chart E

	WORKLOAI	D STATISTICS		
APP	E OF APPLICATION, PEAL OR REFERRAL DEIVED BY THE O.M.B.			
100	EIVED BY THE O.IVI.B.	1986	1985	1984
1.	Assessment Appeals	934	1079	4501
2.	Capital Expenditures of Municipalities and School Boards	1368	1598	1600
3.	Zoning By-law Appeals/Approvals	614	553	665
4.	Appeals of Councils' Refusal to Amend Zoning By-laws	164	125	104
5.	Minor Variance Appeals	632	508	418
6.	Consent Appeals	603	415	404
7.	Official Plans	155	139	139
8.	Plans of Subdivision/Condominium	33	37	31
9.	Miscellaneous	94	123	74
0.	Land Compensation	37	46	61
1.	Consolidated Hearings	2	5	0
	TOTAL	4636	4628	7997

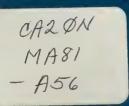
BOARD ORDERS					
YEAR	NUMBER OF ORDERS	TERMINATED FILES BY ORDER OR ADMINISTRATIVELY			
1986 1985 1984 1983	4130 6247 6475 6162	4362 6874 7215 6883			





Ontario Municipal Board 416/598-2266

180 Dundas St. West Toronto, Ontario M5G 1E5





Ontario Municipal Board

80th ANNUAL REPORT

January 1, 1985 to December 31, 1985

H.E. Stewart Chairman

J.G. Malcolm Secretary and Chief Administrative Officer



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Ontario Municipal Board

416/598-2266

180 Dundas St. West Toronto, Ontario M5G 1E5

May 20, 1986

The Honourable Ian G. Scott, Q.C. Attorney General
Ministry of the Attorney General
18 King Street East
18th Floor
TORONTO, Ontario
M5C 1C5

Dear Mr. Attorney General:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1985 calendar year.

As was the case with the 1984 report, the Annual Report for 1985 is being utilized as an information document on the role and responsibilities of the Ontario Municipal Board. A copy of the Annual Report is being sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board. It will also be made available, on request, to libraries, schools, universities and such.

H.E. Stewart Chairman

J.G. Malcolm Secretary and Chief Administrative Officer

JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts on the Board. Most of the powers bestowed upon it in 1932 have been retained by the Board to this date although many other statutes have established jurisdiction or authority on the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisidiction or authority on the Board is given in Chart A, although many of those listed result in infrequent applications or appeals.

When the Board holds a hearing, it is governed by any applicable statute, but it is also subject to the rules of natural justice and the requirements of the Statutory Powers Procedure Act.

The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm of which this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedents. Administrative boards, such as this Board, administer what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion.

In matters of law and jurisdiction, there is provision for appeal from decisions of the Board to the courts. In a limited number of matters dealt with by the Board, there is a provision for appeal from the Board's decision to Cabinet by way of a petition to the Lieutenant-Governor-in-Council.

The Board has authority under Section 42 of the Ontario Municipal Board Act to review any of its decisions or orders to determine if they should be varied. This authority is generally exercised when one or more of the following occurs:

- error in jurisdiction or procedural defect
- fraud or misrepresentation by any party or witness
- manifest error of decision or fact
- changed circumstances or new evidence
- other good and sufficient reason

MEMBERS OF THE BOARD

As of December 31, 1985, there were 35 Members of the Board, including the Chairman and Vice-Chairmen. Members of the Board during 1985 are listed on Chart B.

Members are appointed by the Lieutenant-Governor-in-Council and serve on a full time basis and are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions. Approximately half of the Members are lawyers with other Members being accountants, engineers, architects, planners and public administrators.

The Board wishes to acknowledge the contribution of D.D. Diplock, Q.C., and J.E. Hendy, Q.C. Mr. Diplock, who served as Vice-Chairman of the Board for eight years, retired on April 26, 1985. Mrs. Hendy, who served as a Member of the Board for seven years, resigned on August 30, 1985, to return to the practise of law in the private sector.

ADMINISTRATION OF THE BOARD

As of December 31, 1985, the Board had a staff complement of 75. The staff of the Board provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings, and the preparation of Board orders and decisions.

The Board would like to acknowledge the capable administration provided by Mr. D.G. Henderson, Secretary and Chief Administrative Officer, of the Ontario Municipal Board from August 3, 1982, to August 2, 1985. Mr. Henderson has taken up the position of Director, Supreme District Court Services Branch, in the Ministry of the Attorney General.

From August 5, 1985, until years end, Mrs. B.C. Alty acted as Board Secretary and Chief Administrative Officer.

The offices of the Board are located at 180 Dundas Street West, Toronto, M5G 1E5.

The organization of the Board's staff is shown on Chart C.

HEARINGS

Members of the Board spent 5312 days at 2615 hearings dealing with 4573 files during 1985. Chart D provides information in respect of hearings for the various types of matters which were heard by the Board for each of the last three years.

Although two Members constitute a quorum for Ontario Municipal Board hearings, more than two Members can be assigned to a hearing as long as the number of Members is uneven. The Chairman has authority, however, to appoint only one Member to hear and decide on any application. This authority is often used for hearings involving minor variance or consent appeals under The Planning Act. Hearing length varies from file to file, with some matters scheduled for a number of months and some only for a portion of a day.

It is the practice of the Board to conduct hearings in the municipality from which the application originated and generally the only hearings held by the Board at their offices in Toronto involve Mississauga and the Metroplitan Toronto area. This requires extensive travel by Members of the Board to all parts of Ontario — as far north as Moosonee, as far south as Pelee Island, as far west as Kenora, and as far east as Hawkesbury. Hearings not within reasonable commuting distance from Toronto are arranged on a weekly trip basis and do not involve daily travel from Toronto. The Board appreciates the co-operation of municipalities in providing hearing accommodation.

During 1985, hearings for planning matters took 54 percent of the Members' hearing time. Assessment appeals required 28 percent, land compensation required 5 percent, consolidated hearings 6 percent and other matters required the remaining 7 percent.

In 1985, the O.M.B. continued its practice of offering French language hearings. During 1985, twelve matters were heard by the Board in French including minor variance, consent and zoning appeals as well as assessment matters. Most of these hearings were held in District of Cochrane, United Counties of Prescott and Russell, and Regional Municipality of Ottawa-Carleton. However, two hearings in the Chatham area were conducted in French.

DECISIONS OF THE BOARD

Selected decisions of the Board may be found in the Ontario Municipal Board Reports published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of individual decisions may be obtained on request from the information office of the Board. It is also possible to be placed on the Board's subscription list for copies of all decisions or certain decision types.

COMPUTER SYSTEM

The 79th annual report noted the preparation of functional specifications for an automated system to be introduced at the O.M.B. This report was completed in February 1985, and included a recommendation for the installation of a minicomputer system.

In November 1985, Management Board of Cabinet gave approval for the hardware acquisition and system development.

However, the Board's plans for automation were put on hold while the Ministry of the Attorney General developed an overall strategic plan for systems development.

An interim solution utilizing PC's and possible networking was considered. It was determined that the Board should await completion of the Ministry strategic plan so that a full service system could be installed.

As the Ministry strategic plan was close to being finalized at year's end, hardware acquisition, systems development and implementation of the O.M.B.'s system is an attainable goal for 1986.

RULES OF PRACTICE AND PROCEDURE

Regulation 722 made under Section 90 of the Ontario Municipal Board Act and Regulation 316 made by the former Land Compensation Board were consolidated and redrafted in 1985.

A significant amount of time was spent in drafting these new rules of practice and procedure. After extensive internal review by the Board and its staff, the draft revised rules were made available for public review and discussion in November 1985. The Board has scheduled receipt of submissions from interested parties so that consideration can be given to the recommendations at the June 27, 1986, Board meeting.

PROCESSING TIME

The Board continues to strive to meet its target of two to three months from receipt of an application or appeal by the Board until a matter is brought to hearing. Recognizing that more than thirty days' notice of a hearing date must normally be given to all interested persons, the two to three month time period from date of submission to date of hearing represents expeditious service to municipalities and other parties involved in matters before the Board.

For example, in December of 1985, zoning apppeals under Section 34(27) of the Planning Act, minor variances, official plans and amendments, subdivisions and condominiums, and municipal/miscellaneous applications heard by the Board averaged between two and three months from receipt to hearing. Land Compensation and assessment matters generally took considerably longer to bring to a hearing as so many factors in these processes are beyond the Board's control. Consents averaged slightly higher than the two to three month target as did zoning appeals under Section 34(11) of the Planning Act. In the latter case, this may be explained by the 60 days' notice required by the Board.

This time frame would not be possible without:

- complete and accurate submission of material from municipalities which avoids delays involved through the exchange of correspondence. In particular, the submission forms supplied by the Board for use on appeals related to zoning by-laws, consent applications and minor variance applications have resulted in more complete documentation provided to the Board.
- recognition by legal offices of the Board's desire to maintain a more efficient approach and generally give the necessary co-operation to the Board.
- the willingness of the Members to do their part in the whole process. Their efforts should be recognized in that it is a fairly common practice to sit late or sometimes start early in order to avoid putting a hearing over to be finished at a later date.
- commitment on the part of staff of the Board.

WORKLOAD STATISTICS

Chart E provides a statistical summary of the number of matters received by the Board over the last three years.

Chart Fillustrates the number of Board Orders issued over the last three years.

Chart G provides a summary of the receipt and disposition of petitions made to Cabinet from decisions of the Ontario Municipal Board. The decrease in the number received is a result of the elimination of petitions to Cabinet for planning matters unless the Minister of Municipal Affairs declares a matter to be of 'provincial interest' pursuant to the provisions of the Planning Act, 1983.

ASSESSMENT APPEALS

Concern over the final disposition of the backlog assumed from the County and District Courts indicated in last year's report remains. Resolution by the Board of approximately 45,000 complaints, partly backlog and partly current, awaits judicial determination.

The most significant area (37,500 complaints) is that of the assessment of condominiums. Although the issue of methodology has been the subject of two decisions of the Courts, the matter of proper authorization of agents or corporations relative to the initial filing of appeals remains to be settled by the Courts. Leave to appeal has been granted with respect to several decisions of the Board dealing with that matter, and they are to be joined, insofar as is possible, and argued shortly. Counsel for the Board is working with the parties to expedite the matter. The ultimate impact of these matters on the Board's workload remains uncertain.

During the year the members have continued to expeditiously resolve the remainder of the backlog and current matters through the hearing process. The staff have continued their good relations with the public and their representatives, and during 1985, finalized about 70 percent of current complaints.

Resolution of matters by decisions over the past three years has had the salutary effect of eliminating the necessity for protective appeals and of those appeals filed for delay or negotiating purposes. As a result, complaints received in 1985 represented one-third of the 1984 volume. This activity level could be significantly altered with the re-assessments which have been undertaken in two major regions of the Province.

PLANNING ACT MATTERS

In the past year, the Board and its staff have participated in various conferences and seminars. The Board's role in the planning process as well as its administrative and procedural requirements were discussed. This exchange of information and ideas has assisted the Board in improving its service to its client groups.

The Board has been able to reduce the number of pending planning applications in 1985. The co-operation of municipalities, the Ministry of Municipal Affairs and those individual parties who filed appeals with the Board has made this possible. This reduction in the number of "old" applications has enabled the Board to concentrate on more current matters.

With respect to the Planning Act, the Board has a standing invitation from the ministry to continue to bring issues related to the new act to the attention of the ministry which require further consideration.

CAPITAL EXPENDITURES OF MUNICIPALITIES AND SCHOOL BOARDS

The Ontario Municipal Board is charged with the responsibility of approving a number of financial matters related to local government.

Section 64 of the Ontario Municipal Board Act requires the Board to approve all undertakings by municipalities, school boards (other than separate school boards) and local boards that are to be financed by revenues of subsequent years extending beyond the term of the incumbent municipal council or by the issue of debentures. Undertakings to be financed from current funds during the term of the council are excluded.

In order to carry out this function, the Board has developed certain criteria for establishing the borrowing capabilities of these local government entities. With the assistance of analysis performed in the Ministries of Education and Municipal Affairs, the Board has chosen a percentage of revenue fund expenditures which it considers appropriate to commit to annual long-term commitments. For most municipalities that percentage is 20 percent. In certain circumstances, such as a large municipality experiencing rapid growth, the percentage can rise to 25 percent. The Board considers that a school board should not commit more than 10 percent of its total revenue fund expenditures to capital formation. In certain circumstances, for example, where a school board is experiencing rapid growth, 15 percent may be considered acceptable. This lower rate for school boards is necessary because, on average, approximately 90 percent of school board expenditures are necessary to finance operating expenditures.

The method for calculating the debt capacities of municipalities and school boards is given in sufficient detail in the Board's publication entitled "The Role of the Ontario Municipal Board with respect to undertakings involving long-term commitments by Ontario Municipalities and School Boards".

The financial information for school boards is supplied directly to the Board by the Ministry of Education. Arrangements have been made to obtain financial information of all municipalities and the five-year capital expenditures forecasts of municipalities from the Financial Information Returns through the Ministry of Municipal Affairs. Since 1985, municipalities are no longer required to file with the Board separate returns of Form 15 — Financial Summary — and Form 43 — Five Year Capital Expenditures Forecast. The Board now relies on the Financial Information Return information, generated by the MARS computer program of the Ministry of Municipal Affairs, to assess the debt capacities of municipalities. Timely filing of the Financial Information Return by municipalities with the Ministry of Municipal Affairs will be imperative to enable MARS to provide the financial information required by the Board for establishing quotas/debt limits for capital works programmes of the municipalities for the current year. Delay in receiving financial information could result in the approval of a project application being delayed.

Individual applications for capital projects are submitted by local government entities to the Board for approval. These may be for each individual work or for a class or classes of work without specifying any particular work. The Board also considers "bulk" approvals for municipal drains under the Drainage Act and the local improvements under Sections 11 and 12 of the Local Improvement Act. In 1985, the Board dealt with 1598 such applications.

Each application must set out the legislative authority under which the entity is proceeding with the work and the financing thereof. With the enactment of the Municipal Amendment Act, 1982 (Bill 150), the requirement of dispensing with a vote of electors has been repealed and it is at the discretion of the Board when it shall direct advertising of an application. When directed by the Board, notice of the proposed project must be given.

Where no objections are received within the time limit specified, the Board will approve the application without a public hearing. A municipality may not proceed to advertise if, in the Board's opinion, the project could not be undertaken within the financial capacity of the municipality. If objections are received, the Board normally holds a public hearing, unless the Board determines that the objections are insufficient to warrant a public hearing to be held.

Detailed procedure manuals setting out the Board's requirements for applications for the approval of capital expenditures, imposition of special rates, borrowing in excess of 70 percent of a municipality's current outstanding receivables, the use of surplus debenture funds, etc., have been sent to all municipalities, school boards and conservation authorities for guidance. Copies of those manuals are available from the Board.

The Board also acts as an arbitrator or appeal body with respect to a number of other financial matters. These include the apportionment of shared costs for school, county, region, home for the aged, welfare boards and planning purposes. Also the Board may be requested to review the equalization factors and equalized assessments as published annually by the Ministry of Revenue.

As can be seen from the foregoing, which is by no means an exhaustive list of the Board's approval functions pertaining to local government finance, the Board has been given a number of legislative powers to ensure not only the financial viability of local government entities but also the welfare of ratepayers which councils seek to specifically charge for specific purposes. The Board believes that the generally good credit rating of most municipalities and school boards in Ontario can in part be attributed to the Board's role.

LAND COMPENSATION

The responsibilities of the former Land Compensation Board have been successfully integrated into the Ontario Municipal Board, It is now the responsibility of the Ontario Municipal Board to determine compensation payable to an owner as defined in the Expropriations Act.

The integration has enabled the Board to be responsive in arranging earlier hearings than was previously possible and has resulted in a significant reduction in the number of pending files on Land Compensation matters. The Board maintains a continuous follow-up with applicants to bring on hearings.

Arbitrations come before it through a Notice of Arbitration filed with the Board and served on the other party or parties. Subsequent steps in the proceedings are set out in the Rules of Practice and Procedure under Regulation 316 of the Expropriations Act of the Board (the rules are presently under review).

Claims for compensation are based upon the market value of the land expropriated, damages and injurious affection. Claims for damages may take the form of disturbance damages for business loss, personal loss, relocation costs and other costs that flow directly from the taking. Injurious affection, while it may include personal and business damages under certain statutory conditions, generally is awarded for the reduction in market value to the remaining lands.

The Board is required to prepare written reasons for its decisions. These are reported in a publication published by Canada Law Book Limited and entitled "Land Compensation Reports".

The average time for hearing an arbitration normally ranges between one to six weeks. This is dependent upon the number and complexity of issues involved.

A court reporter is engaged for every hearing, as it is a requirement of the Expropriations Act that all oral evidence submitted before the Board be recorded.

Each decision of the Board is appealable to the Supreme Court.

On July 15, 1983, when the Land Compensation Board was amalgamated with the Ontario Municipal Board, 336 applications were pending. Two hundred and thirty six of those applications have since been finalized. During 1985, 46 new applications were received and seventy cases completed.

FINANCIAL SUMMARY

REVENUE:

The Board has adopted, under Section 99 of the Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. The fees collected by the Board are paid to the Treasurer of Ontario.

Fees collected in the 1985 calendar year are as follows:

Application, Appeal or Referral Type	Fees Collected		
Capital Expenditures	\$360,237.35		
Planning Act Matters	\$176,870.00		
Assessment Appeals	\$ 74,680.00		
Miscellaneous	\$ 37,865.75		
TOTAL	\$649,653.10		

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

The Board's expenditures in the 1985 calendar year are as follows:

Account Item	Amount		
Salary & Wages	\$3,967,300		
Employee Benefits	\$ 612,100		
Transportation & Communications	\$ 417,400		
Services	\$ 125,900		
Supplies & Equipment	\$ 162,700		
Transfer Payments	\$ 4,000		
TOTAL EXPENDITURES	\$5,289,400		

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

Assessment Act

Beach Protection Act

Cemeteries Act

Conservation Authorities Act

Consolidated Hearings Act

District Municipality of Muskoka Act

District Welfare Administration Boards Act

Education Act

Evidence Act

Expropriations Act

Haliburton Act

Highway Improvement Act

Homes for the Aged and Rest Homes Act

Local Improvement Act

Mining Tax Act

Municipal Act

Municipal Affairs Act

Municipal Corporations Quieting Orders Act

Municipal Elections Act

Municipal Franchises Act

Municipal Tax Assistance Act

Municipality of Metropolitan Toronto Act

Niagara Escarpment Planning and Development Act

Ontario Education Capital Aid Corporation Act

Ontario Heritage Act

Ontario Municipal Board Act

Ontario Municipal Improvement Corporation Act

Ontario Northland Transportation Commission Act

Ontario Telephone Development Corporation Act

Ontario Universities Capital Aid Corporation Act

Ontario Water Resources Act

County of Oxford Act

Pits and Quarries Control Act

Planning Act

Power Commission Act

Power Corporation Act

Public Libraries Act

Public Service Works on Highway Act

Public Transportation and Highway Improvement Act

Public Utilities Act

Public Works Act

Railways Act

Regional Municipality of Durham Act

Regional Municipality of Haldimand-Norfolk Act

Regional Municipality of Halton Act

Regional Municipality of Hamilton-Wentworth Act

Regional Municipality of Niagara Act

Regional Municipality of Ottawa-Carleton Act

Regional Municipality of Peel Act

Regional Municipality of Sudbury Act

Regional Municipality of Waterloo Act

Regional Municipality of York Act

Registry Act

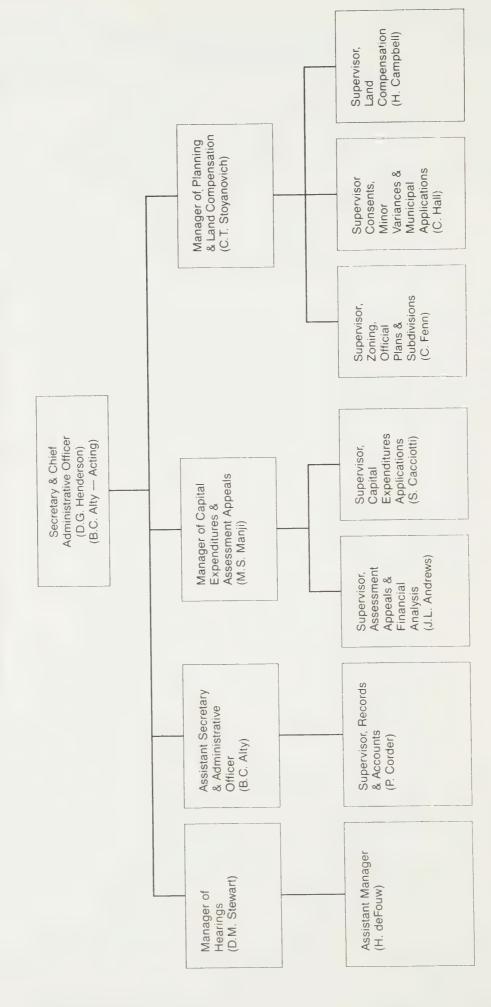
St. Clair Parkway Commission Act Secondary Schools and Board of Education Act Shoreline Property Assistance Act Telephone Act Territorial Division Act Tile Drainage Act Trees Act Trustee Act

Note: In addition to this list, there are numerous Acts for individual municipalities which confer jurisdiction and authority on the Board.

MEMBERS OF THE ONTARIO MUNICIPAL BOARD

Member	Date of Appointment
H.E. Stewart, Chairman	April 1, 1974 Chairman since September 1, 1979
W.H.J. Thompson, Q.C., Vice-Chairman	
D.S. Colbourne, Vice-Chairman	September 3, 1968 Vice-Chairman since June 1, 1977
D.D. Diplock, Q.C., Vice-Chairman	July 1, 1977 Retired April 26, 1985
P.M. Brooks, Q.C., Vice-Chairman	November 1, 1973 Vice-Chairman since November 13, 1980
H.H. Lancaster, Q.C., Vice-Chairman	September 7, 1970 Vice-Chairman since June 30, 1981
D.H. McRobb, Vice-Chairman	January 3, 1978 Vice-Chairman since October 22, 1982
A.B. Ball	January 1, 1974
H.W. Kelly, Q.C.	September 3, 1974
J.A. Wheler, Q.C.	September 3, 1974
E.A. Seaborn	September 9, 1974
A.J.L. Chapman, Q.C.	September 10, 1974
C.G. Charron, Q.C.	February 1975
K.D. Bindhardt	January 2, 1976
P.G. Wilkes	January 16, 1978
J.E. Hendy, Q.C.	January 30, 1978
	Resigned August 30, 1985
V.M. Singer, Q.C.	September 1, 1978
M.D. Henderson	September 1, 1978
D.L. Santo	March 10, 1980
D.M. Rogers, Q.C.	March 10, 1980
T.F. Baines, Q.C.	March 17, 1980
S.R. Cole	October 8, 1981
G. Campbell, Q.C.	October 8, 1981
G.T. Dobbs	October 8, 1981
G.M. Hobart	October 8, 1981
D.W. Middleton	October 8, 1981
J.R. Mills	May 10, 1982
P.H. Howden, Q.C.	July 19, 1982
E.F. Crossland	November 1, 1982
G.A. Harron	December 1, 1982
M.A. Rosenberg, Q.C.	January 3, 1983
R.D.M. Owen	January 4, 1983
N.L. Cheeseman	January 4, 1983
R.W. Rodman	March 14, 1983
G.I. Thomson, Q.C.	May 2, 1983
Brian W. McLoughlin	January 1, 1984
René Chartier	February 1, 1984

ADMINISTRATION OF THE ONTARIO MUNICIPAL BOARD



		HE	ARINGS			
FILE TYPE	NUMBI	ER OF HE	ARINGS		R OF FILE	
	1985	1984	1983	1985	1984	1983
Planning and Municipal	1643	1279	1480	2242	1743	1953
Assessment Appeals	885	1173	664	2220	3669	2017
Land Compensation	80	87	88	104	94	98
Consolidated Hearings	7	9	7	7	15	16
TOTAL	2615	2548	2239	4573	5521	4084

Chart E

WORKLOAD STATISTICS

The figures reflect a decrease in the number of assessment appeals processed in 1985. This is the result of further progress in clearing those complaints assumed from the County and District Courts that are not awaiting judicial determinations.

APF	PE OF APPLICATION, PEAL OR REFERRAL			
REC	CEIVED BY THE O.M.B.	1985	1984	1983
1.	Assessment Appeals	1079	4501	3572
2.	Capital Expenditures of Municipalities and School Boards	1598	1600	1854
3.	Zoning By-law Appeals/Approvals	553	665	1695
4.	Appeals of Councils' Refusal to Amend Zoning By-laws	125	104	100
5.	Minor Variance Appeals	508	418	455
6.	Consent Appeals	415	404	405
7.	Official Plans	139	139	125
8.	Plans of Subdivision	37	31	56
9.	Miscellaneous	123	74	69
10.	Land Compensation	46	61	69
11.	Consolidated Hearings	5	0	4
	TOTAL	4628	7997	8404

BOARD ORDERS							
YEAR	NUMBER OF ORDERS	NUMBER OF FILES DEALT WITH IN ORDERS					
1985 1984 1983	6,247 6,475 6,162	6,874 7,215 6,883					

Chart G

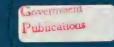
PETITIONS TO CABINET FROM BOARD DECISIONS							
YEAR	CARRIED OVER FROM PREVIOUS YEAR	RECEIVED*	CONFIRMED	RESCINDED OR VARIED	NEW HEARING	PETITION WITHDRAWN	CARRIED OVER TO NEXT YEAR
1985	44	58	26	7	3	11	55
1984	47	57	30	17	1	12	44
1983	43	95	54	20	1	16	47
*more t	*more than one petition is sometimes filed in relation to the same O.M.B. decision						



Ontario Municipal Board 416/598-2266

180 Dundas St. West Toronto, Ontario M5G 1E5







Ontario Municipal Board

79TH ANNUAL REPORT

January 1, 1984 to December 31, 1984

H.E. Stewart Chairman

D.G. Henderson Secretary and Chief Administrative Officer



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Ontario Municipal Board 416/598-2266

180 Dundas St. West Toronto, Ontario M5G 1E5

June 3, 1985

The Honourable Alan W. Pope, Q.C. Attorney General
Ministry of the Attorney General
18 King Street East
18th Floor
TORONTO, Ontario
M5C 1C5

Dear Mr. Attorney General:

We are pleased to submit to you, as required by Section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1984 calendar year.

The Annual Report for 1984 has been expanded in content and scope from previous years and is being utilized as an information document on the role and responsibilities of the Ontario Municipal Board. A copy of the Annual Report has been sent to each municipality in Ontario as well as to other organizations which deal on a regular basis with matters before the Board.

H.E. Stewart Chairman

D.G. Henderson Secretary and Chief Administrative Officer



JURISDICTION AND AUTHORITY

The legislative roots of the Ontario Municipal Board can be traced back to 1897 when the Office of the Provincial Municipal Auditor was created to establish rules for the proper keeping of accounts by municipalities. The Ontario Railway and Municipal Board Act in 1906 created a Board of the same name. Later, in 1917, the Bureau of Municipal Affairs Act was passed and the Bureau, which was created, supervised the accounts of schools and public utilities and issued bulletins to guide municipalities in administration.

The Ontario Municipal Board Act, enacted in 1932, created the Board as an independent administrative tribunal. That Act repealed the Ontario Railway and Municipal Board Act and the Bureau of Municipal Affairs Act, and incorporated many of the provisions and powers of those Acts on the Board. Most of the powers bestowed upon it in 1932 have been retained by the Board to this date although many other statutes have established jurisdiction or authority on the Board, notably the Assessment Act, the Planning Act, the Municipal Act and the Expropriations Act. A list of some of the statutes which today confer jurisdiction or authority on the Board is given in Chart A, although many of those listed result in infrequent applications or appeals.

When the Board holds a hearing, it is governed by any applicable statute, but it is also subject to the rules of natural justice and the requirements of the Statutory Powers Procedure Act.

The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm of which this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedents. Administrative boards, such as this Board, administer what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion.

In matters of law and jurisdiction, there is provision for appeal from decisions of the Board to the courts. In a limited number of matters dealt with by the Board, there is a provision for appeal from the Board's decision to Cabinet by way of a petition to the Lieutenant Governor in Council.

The Board has authority under Section 42 of the Ontario Municipal Board Act to review any of its decisions or orders to determine if it should be varied. This authority is generally exercised when one or more of the following occurs:

- error in jurisdiction or procedural defect
- fraud or misrepresentation by any party or witness
- manifest error or decision or fact
- changed circumstances or new evidence
- other good and sufficient reason

MEMBERS OF THE BOARD

As of December 31, 1984, there were 37 Members of the Board, including the Chairman and Vice-Chairmen. Members of the Board during 1984 are listed on Chart B.

Members are appointed by the Lieutenant Governor in Council and serve on a full time basis and are based at the Board's offices in Toronto.

The membership of the Board reflects a variety of professions. Approximately half of the Members are lawyers with other Members being accountants, engineers, architects, planners and public administrators.

The Board wishes to acknowledge the contribution of A.H. Arrell, Q.C., C.G. Ebers, Q.C., and J. Worrall, Q.C., who have retired from the Board. Mr. Arrell, who served as Vice-Chairman of the Board for twenty-two years, retired on December 31, 1983. Mr. Ebers, who was a Member of the Board for ten years, retired on August 31, 1984. Mr. Worrall who was a Member of the Board for three years and prior to that a Vice-Chairman of the Land Compensation Board for four years, retired on June 30, 1984.

ADMINISTRATION OF THE BOARD

As of December 31, 1984, the Board had a staff complement of 75. The staff of the Board provide administrative and clerical services in connection with the processing of applications, appeals and referrals, the scheduling of hearings, and the preparation of Board orders and decisions.

The offices of the Board are located at 180 Dundas Street West, Toronto, M5G 1E5.

The organization of the Board's staff is shown on Chart C.

HEARINGS

Members of the Board spent 5800 days at 2548 hearings dealing with 5521 files during 1984. Chart D provides information in respect of hearings for the various types of matters which were heard by the Board for each of the last three years. The chart illustrates the increased significance of assessment appeals on the Board's workload.

Although two Members constitute a quorum for Ontario Municipal Board hearings, more than two Members can be assigned to a hearing as long as the number of Members is uneven. The Chairman has authority, however, to appoint only one Member to hear and decide on any application. This authority is often used for hearings involving minor variance or consent appeals under The Planning Act. Hearing length varies from file to file, with some matters scheduled for a number of months and some only for a portion of a day.

It is the practice of the Board to conduct hearings in the municipality from which the application originated and generally the only hearings held by the Board at their offices in Toronto involve Mississauga and the Metropolitan Toronto area. This requires extensive travel by Members of the Board to all parts of Ontario — as far north as Moosonee, as far south as Pelee Island, as far west as Kenora, and as far east as Hawkesbury. Hearings not within reasonable commuting distance from Toronto are arranged on a weekly trip basis and do not involve daily travel from Toronto. The Board appreciates the co-operation of municipalities in providing hearing accommodation.

During 1984, hearings for planning matters took 44 percent of the Members' hearing time. Assessment appeals required 41 percent, land compensation required 9 percent, and other matters required the remaining 6 percent.

A new initiative of the Board in 1984 was the ability to hold hearings in French as well as English. In order to keep any difficulties from this new service to a minimum, the Board has phased in its introduction. The Board holds bilingual hearings for any assessment appeal where the appellant has indicated on the notice of complaint form that he or she wishes to appear before a bilingual board. This has resulted in bilingual hearings on assessment matters now being available from the Ontario Municipal Board as well as the Assessment Review Board. For other than assessment appeals, the Board wrote to all municipal clerks in the United Counties of Prescott and Russell and the District of Cochrane advising that the Board can hold bilingual hearings and requesting that those municipal clerks advise the Board, when submitting an appeal or application, whether a bilingual hearing and/or interpretor is needed based on the known parties involved in the matter. The service will be formally expanded to other parts of the province in 1985, although the Board has already been attempting to accommodate specific requests for bilingual hearings in those other areas.

DECISIONS OF THE BOARD

Selected decisions of the Board may be found in the Ontario Municipal Board Reports published by Canada Law Book Limited under arrangement made with the Board and the Ministry of the Attorney General. Copies of individual decisions may be obtained on request from the information office of the Board. It is also possible to be placed on the Board's subscription list for copies of all decisions or certain decision types.

COMPUTER SYSTEM

The Board has had consultants carry out a feasibility study and a study of the functional requirement specifications for a computer system. The system, as it is envisaged at this time, will provide for acknowledgements, invoices, notices of appointment for hearing, management reporting, and some other aspects to be produced automatically. The Board expects time and cost efficiencies to be achieved as the system is implemented.

RULES OF PRACTICE AND PROCEDURE

The Board has initiated a review of its rules regulating its practice and procedure made under Section 90 of the Ontario Municipal Board Act. The existing Regulation 316, made by the former Land Compensation Board, and Regulation 722 made under Section 90 of the Ontario Municipal Board Act, will be updated and consolidated in 1985.

REDUCED PROCESSING TIME

The Board now schedules hearings in a much shorter time than previously was the case. It is not uncommon for a hearing date to be scheduled in two or three months from the time the Board received the matter. Recognizing that more than thirty days' notice of a hearing date must normally be given to all interested persons, the two to three month time period from date of submission to date of hearing is a significantly improved service to municipalities and other parties involved in matters before the Board.

This improvement would not be possible without:

- improved submission of material from municipalities which avoids delays involved through the exchange of correspondence. In particular, the submission forms supplied by the Board for use on appeals related to zoning by-laws, consent applications and minor variance applications have resulted in more complete documentation provided to the Board.
- recognition by legal offices of our desire to develop a more efficient approach and generally give the necessary co-operation to the Board.
- the willingness of the Members to do their part in the whole process. Their efforts should be recognized in that it is a fairly common practice to sit late or sometimes start early in order to avoid putting a hearing over to be finished at a later date.
- an improved approach to processing on the part of staff of the Board.

WORKLOAD STATISTICS

Chart E provides a statistical summary of the number of matters received by the Board over the last three years. The figures illustrate the increased significance of assessment appeals on the Board's workload.

Chart F illustrates the increase in the number of Board Orders issued over the last three years.

Chart G provides a summary of the receipt and disposition of petitions made to Cabinet from decisions of the Ontario Municipal Board. The decrease in the number received is a result of the elimination of petitions to Cabinet for planning matters unless the Minister of Municipal Affairs and Housing declares a matter to be of 'provincial interest' pursuant to the provisions of the Planning Act, 1983.

ASSESSMENT APPEALS

The Board can report excellent progress in clearing the backlog of complaints which was assumed from the County and District Courts as a result of the proclamation on January 1, 1983, of the Assessment Appeals Procedure Statute Law Amendment Act. The Board's mandate was to deal with that backlog within a three year period and at the same time ensure that no further backlog is created with new appeals made to the Board from decisions of the Assessment Review Board. Although the number of complaints transferred from the County and District Courts mushroomed from the 67,000 reported to the Board, to approximately 95,500, the target date for dealing with

the backlog is attainable. This is subject only to the caution as to the disposition of certain issues pending before the Courts, which currently preclude the Board from dealing with some appeals.

The dedicated performance of the Board staff assigned to this particular task is in large part responsible for this progress. Through their considerable efforts in dealing with the parties involved in assessment appeals, many of the matters have been expedited and resolved in an amicable fashion. The relationship of the staff to the public at large, and to those counsel and tax agents involved in the assessment appeal process has been excellent. Many commendations have been received by the Board to this effect.

Members of the Board have expeditiously and conscientiously approached the task of dealing with the considerable backlog, and it appears it is on the way to being satisfactorily resolved.

Due to the large volume of complaints, and the considerable number of decisions which have been issued by this Board, a number have been appealed to the Courts on points of law. Relatively few matters have been the subject of an application for review of a decision under the Board's Act, and only three requests for judicial review have been received during 1984. Given the number of hearings, this represents an extremely favourable commendation of the Board. In three instances the Ombudsman has been requested to investigate decisions of the Board and these appear predominantly to be disagreements with the conclusion reached.

There are a significant number of complaints, the resolution of which appears to be beyond the ability of the Board to accomplish until judicial determinations have been made. The most significant area is that of the assessment of condominiums. The greatest area of concern in this respect is in the City of Mississauga wherein there were estimated to be over 20,000 outstanding complaints included in the backlog transfer. During 1984 the appeal in respect of Peel Condominium Corporation #57 from the decision of Judge Grey was heard, and decision rendered by the Divisional Court. Another decision of the Board with respect to a Metropolitan Toronto Condominium Corporation was also the subject of an appeal to the Courts and a decision was rendered.

These two decisions appear to have prompted the Ministry of Revenue to reassess condominiums, Province-wide, in 1984 and 1985 taxation. They have, further, in line with their view of those decisions, recalculated prior years for purposes of hearings.

Two current (early 1985) decisions of this Board dealing with the questions determined by the Courts in the aforementioned decisions have elucidated the apparent differences arising from those decisions with respect to the method of assessing condominiums, and as to what constitutes properties similar to condominiums for purposes of Section 65(1) of the Assessment Act. Leave to appeal these two decisions is being sought.

In some instances where tax agents have been involved in filing appeals on behalf of the condominium corporations and/or the owners, counsel appearing on behalf of the Regional Assessment Commissioners have received instructions and have acted thereon to challenge, and have the Board determine, whether or not the appeals filed by such agents were properly authorized. This is despite the fact these appeals have been pending before the Courts as far back as the year 1976, and such status had not previously been challenged.

Two comprehensive decisions of the Board have been rendered in respect of this challenge on two different appeals. Leave to appeal both of these decisions is being sought.

The Board, of its own motion, has sought intervention of counsel on its behalf in these matters of status and the assessment methods solely for the

PLANNING ACT MATTERS

purposes of accomplishing the resolution of this large backlog of appeals. We are of the opinion, that it is in the interest of the taxpayers of the Province, to have these assessments determined so that the rolls might be closed in all municipalities affected, so that the final tax revenues may be determined covering a considerable number of years.

The Board has been dealing with matters coming before it under the new Planning Act, since its proclamation on August 1, 1983.

One significant impact of the Planning Act, 1983, is that the Board now dismisses or allows appeals made in respect of zoning by-laws rather than approves zoning by-laws. This has resulted in the significant decrease during 1984 in the number of zoning by-law appeals/approvals received by the Board, as indicated on Chart E. That decrease represents the number of by-laws with no objections which formerly came to the Board for routine approval in Chambers. Under the new legislation, only those by-laws which are appealed and will require a hearing come to the Board for disposition. This has relieved the Board of a considerable administrative workload and has enabled more efficient processing of those matters which require a hearing.

The Board has identified, through its initial experiences in dealing with matters under the Planning Act, 1983, some issues which may require legislative amendments. The Board has brought these issues to the attention of the Ministry of Municipal Affairs and Housing. The following list sets out those issues in order of appearance in the Act:

- 1) Sections 17(4) and 34(22) the owner of land being rezoned is not automatically included as a party to a referral or an appeal to the Board. Until such time as amendments to the legislation are made to confirm the status of an owner of land as a party, the Board is leaving the adding of parties to be dealt with at the commencement of a hearing rather than adding parties by Order in advance of the hearing.
- 2) Sections 44(12) and 52(7) there would be less likelihood of late appeals if the legislation was amended to have identical requirements for the filing of consent and minor variance appeals.
- 3) Section 52 it would be beneficial if a process was introduced for the withdrawal of consent appeals in the same way that Section 44(15) provides a process for the withdrawal of minor variance appeals.
- 4) Section 52(7) the requirement for an appellant having to be sent a notice of decision from the consent granting authority has been seen to create a hardship in some situations and has deprived the Board of jurisdiction to deal with some appeals. In addition, the requirement in Sections 44(12) and 52(7) for reasons in support of an appeal has deprived the Board of jurisdiction to deal with some appeals. The Board understands that the basis of the requirement for reasons was an attempt to narrow the issues and reduce hearing time but it is not possible to reduce the hearing time below a half day for consent and minor variance appeals and therefore there is limited benefit to the requirement for reasons for these types of appeals.
- 5) Section 52(20) in order to avoid the possibility of consents lapsing when there is an appeal pending at the Board, it has been suggested that this section should be amended to provide that the one year period for fulfilling conditions should start from the date of decision of the Board.

The issues listed above are not major in terms of the overall municipal planning process and the Board and other participants in the planning process appear to be ably dealing with the new provisions of the Planning Act, 1983.

In 1984, the Board instituted the use of submission forms which must accompany each consent appeal, minor variance appeal, zoning by-law appeal, appeal related to a council's refusal to amend a zoning by-law, official plan referral and subdivision plan referral sent to the Board. These submission forms have clarified, for municipal officials and other practitioners in the planning process, exactly what is necessary to include when forwarding appeals and referrals to the Board. It has enabled the Board to more quickly set dates for hearing, by eliminating the time-consuming exchange of correspondence which occurs when submissions are incomplete. Copies of these submission forms are available from the information office of the Board.

CAPITAL EXPENDITURES OF MUNICIPALITIES AND SCHOOL BOARDS

The Ontario Municipal Board is charged with the responsibility of approving a number of financial matters related to local government.

Section 64 of the Ontario Municipal Board Act requires the Board to approve all undertakings by municipalities, school boards (other than separate school boards) and local boards that are to be financed by revenues of subsequent years extending beyond the term of the incumbent municipal council or by the issue of debentures. Undertakings to be financed from current funds during the term of the council are excluded.

In order to carry out this function, the Board has developed certain criteria for establishing the borrowing capabilities of these local government entities. With the assistance of analysis performed in the Ministries of Education and Municipal Affairs and Housing, the Board has chosen a percentage of revenue fund expenditures which it considers appropriate to commit to annual long-term commitments. For most municipalities that percentage is 20 percent. In certain circumstances, such as a large municipality experiencing rapid growth, the percentage can rise to 25 percent. The Board considers that a school board should not commit more than 10 percent of its total revenue fund expenditures to capital formation. In certain circumstances, for example, where a school board is experiencing rapid growth, 15 percent may be considered acceptable. This lower rate for school boards is necessary because, on average, approximately 90 percent of school board expenditures are necessary to finance operating expenditures.

The method for calculating the debt capacities of municipalities and school boards is given in sufficient detail in the Board's publication entitled "The Role of the Ontario Municipal Board with respect to undertakings involving long-term commitments by Ontario Municipalities and School Boards".

The financial information for school boards is supplied directly to the Board by the Ministry of Education. Arrangements have been made to obtain financial information of all municipalities and the five-year capital expenditures forecasts of municipalities from the Financial Information Returns through the Ministry of Municipal Affairs and Housing. Starting in 1985, municipalities will no longer be required to file with the Board separate returns of Form 15— Financial Summary and Form 43— Five-year Forecast. The Board will rely on the Financial Information Return information to be generated by the MARS computer program of the Ministry of Municipal Affairs and Housing. Timely filing of the Financial Information Return by municipalities with the Ministry of Municipal Affairs and Housing will be imperative to enable MARS to provide the financial information required by the Board for establishing quotas/debt limits for capital works programmes of the municipalities for the current year. Delay in receiving financial information could result in the approval of a project application being delayed.

Individual applications for capital projects are submitted by local government entities to the Board for approval. These may be for each individual work or for a class or classes of work without specifying any particular work. The Board also considers "bulk" approvals for municipal drains under the Drainage Act and the local improvements under Sections 11 and 12 of the Local Improvement Act. In 1984, the Board dealt with 1600 such applications.

Each application must set out the legislative authority under which the entity is proceeding with the work and the financing thereof. With the enactment of the Municipal Amendment Act, 1982 (Bill 150), the requirement of dispensing with a vote of electors has been repealed and it is at the discretion of the Board when it shall direct advertising of an application. When directed by the Board, notice of the proposed project must be given.

Where no objections are received within the time limit specified, the Board will approve the application without a public hearing. A municipality may not proceed to advertise if, in the Board's opinion, the project could not be undertaken within the financial capacity of the municipality. If objections are received, the Board normally holds a public hearing, unless, the Board determines that the objections are insufficient to warrant a public hearing to be held.

Detailed procedure manuals setting out the Board's requirements for applications for the approval of capital expenditures, imposition of special rates, borrowing in excess of 70 percent of a municipality's current outstanding receivables, the use of surplus debenture funds, etc., have been sent to all municipalities, school boards and conservation authorities for guidance. Copies of those manuals are available from the Board.

The Board also acts as an arbitrator or appeal body with respect to a number of other financial matters. These include the apportionment of shared costs for school, county, region, home for the aged, welfare boards and planning purposes. Also the Board may be requested to review the equalization factors and equalized assessments as published annually by the Ministry of Revenue.

As can be seen from the foregoing, which is by no means an exhaustive list of the Board's approval functions pertaining to local government finance, the Board has been given a number of legislative powers to ensure not only the financial viability of local government entities but also the welfare of rate-payers which councils seek to specifically charge for specific purposes. The Board believes that the generally good credit rating of most municipalities and school boards in Ontario can in part be attributed to the Board's role.

LAND COMPENSATION

The responsibilities of the former Land Compensation Board have been successfully integrated into the Ontario Municipal Board since the proclamation of the Expropriations Amendment Act on July 15, 1983. The integration has enabled the Board to be responsive in arranging earlier hearings than was previously possible and has resulted in a significant reduction in the number of pending files on land compensation matters.

FINANCIAL SUMMARY

REVENUE:

The Board has adopted, under Section 99 of The Ontario Municipal Board Act, a tariff which establishes a filing fee in connection with each application, appeal or referral. The fees collected by the Board are paid to the Treasurer of Ontario.

Fees collected in the 1984 calendar year are as follows:

Application, Appeal or Referral Type	Fees Collected			
Capital Expenditures	\$285,396.35			
Planning Act Matters	\$179,656.00			
Assessment Appeals	\$165,225.00			
Miscellaneous	\$ 29,603.20			
TOTAL	\$659,880.55			

EXPENDITURE:

The budget of the Ontario Municipal Board is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

The Board's expenditures in the 1984 calendar year are as follows:

Account Item	Amount			
Salary & Wages	\$3,911,100			
Employee Benefits	\$ 581,800			
Transportation & Communications	\$ 401,600			
Services	\$ 177,700			
Supplies & Equipment	\$ 63,600			
Transfer Payments	\$ 4,000			
TOTAL EXPENDITURES	\$5,139,800			

STATUTES FROM WHICH THE ONTARIO MUNICIPAL BOARD DERIVES JURISDICTION AND AUTHORITY

Assessment Act

Beach Protection Act

Cemeteries Act

Conservation Authorities Act

Consolidated Hearings Act

District Municipality of Muskoka Act

District Welfare Administration Boards Act

Education Act

Evidence Act

Expropriations Act

Haliburton Act

Highway Improvement Act

Homes for the Aged and Rest Homes Act

Local Improvement Act

Mining Tax Act

Municipal Act

Municipal Affairs Act

Municipal Corporations Quieting Orders Act

Municipal Elections Act

Municipal Franchises Act

Municipal Tax Assistance Act

Municipality of Metropolitan Toronto Act

Niagara Escarpment Planning and Development Act

Ontario Education Capital Aid Corporation Act

Ontario Heritage Act

Ontario Municipal Board Act

Ontario Municipal Improvement Corporation Act

Ontario Northland Transportation Commission Act

Ontario Telephone Development Corporation Act

Ontario Universities Capital Aid Corporation Act

Ontario Water Resources Act

County of Oxford Act

Pits and Quarries Control Act

Planning Act

Power Commission Act

Power Corporation Act

Public Libraries Act

Public Service Works on Highway Act

Public Transporation and Highway Improvement Act

Public Utilities Act

Public Works Act

Railways Act

Regional Municipality of Durham Act

Regional Municipality of Haldimand-Norfolk Act

Regional Municipality of Halton Act

Regional Municipality of Hamilton-Wentworth Act

Regional Municipality of Niagara Act

Regional Municipality of Ottawa-Carleton Act

Regional Municipality of Peel Act

Regional Municipality of Sudbury Act

Regional Municipality of Waterloo Act

Regional Municipality of York Act

Registry Act

St. Clair Parkway Commission Act Secondary Schools and Board of Education Act Shoreline Property Assistance Act Telephone Act Territorial Division Act Tile Drainage Act Trees Act Trustee Act

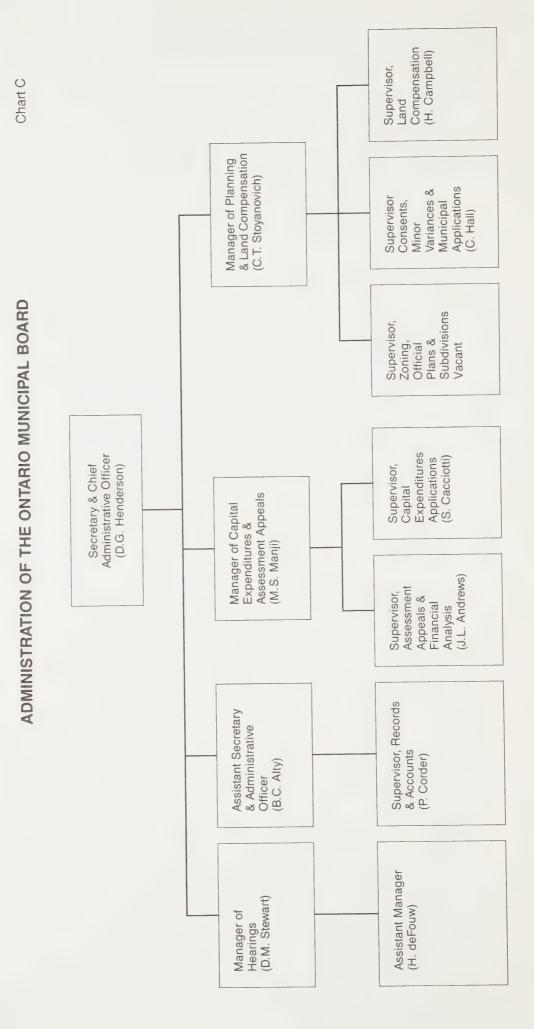
Note: In addition to this list, there are numerous Acts for individual municipalities which confer jurisdiction and authority on the Board.

MEMBERS OF THE ONTARIO MUNICIPAL BOARD

MEMBERS OF THE ONTARIO MUNICIPAL BUARD					
Member	Date of Appointment				
H.E. Stewart, Chairman	April 1, 1974				
W.H.J. Thompson, Q.C., Vice-Chairman	Chairman since September 1, 1979				
W.H.o. Friompson, Q.C., Vice-Chairman	July 1, 1966 Vice-Chairman since June 1, 1977				
D.S. Colbourne, Vice-Chairman	September 3, 1968				
D.D. Diplock, Q.C., Vice-Chairman	Vice-Chairman since June 1, 1977 July 1, 1977				
P.M. Brooks, Q.C., Vice-Chairman	November 1, 1973				
Tim Brooke, Q.O., vice Griaiman	Vice-Chairman since November 13, 1980				
H.H. Lancaster, Q.C., Vice-Chairman	September 7, 1970				
	Vice-Chairman since June 30, 1981				
D.H. McRobb, Vice-Chairman	January 3, 1978				
4 B B #	Vice-Chairman since October 22, 1982				
A.B. Ball	January 1, 1974				
C.G. Ebers, Q.C.	August 12, 1974				
H.W. Kelly, Q.C.	Retired on August 31, 1984				
J.A. Wheler, Q.C.	September 3, 1974				
E.A. Seaborn	September 3, 1974				
A.J.L. Chapman, Q.C.	September 9, 1974				
C.G. Charron, Q.C.	September 10, 1974 February 1, 1975				
K.D. Bindhardt	January 2, 1976				
P.G. Wilkes	January 16, 1978				
J.E. Hendy, Q.C.	January 30, 1978				
V.M. Singer, Q.C.	September 1, 1978				
M.D. Henderson	September 1, 1978				
D.L. Santo	March 10, 1980				
D.M. Rogers, Q.C.	March 10, 1980				
T.F. Baines, Q.C.	March 17, 1980				
J. Worrall, Q.C.	October 8, 1981				
	Retired on June 30, 1984				
S.R. Cole	October 8, 1981				
G. Campbell, Q.C.	October 8, 1981				
G.T. Dobbs	October 8, 1981				
G.M. Hobart	October 8, 1981				
D.W. Middleton	October 8, 1981				
J.R. Mills	May 10, 1982				
P.H. Howden, Q.C.	July 19, 1982				
E.F. Crossland	November 1, 1982				
G.A. Harron M.A. Rosenberg, Q.C.	December 1, 1982				
R.D.M. Owen	January 3, 1983				
N.L. Cheeseman	January 4, 1983				
R.W. Rodman	January 4, 1983 March 14, 1983				
G.I. Thomson, Q.C.	May 2, 1983				
Brian W. McLoughlin	January 1, 1984				
Paná Chartiar	Call 4 4004				

February 1, 1984

René Chartier



HEARINGS						
FILE TYPE	NUMBE	ER OF HEA	ARINGS		BER OF FIL TH AT HEA	
	1984	1983	1982	1984	1983	1982
Planning and Municipal	1279	1480	N/A	1743	1953	N/A
Assessment Appeals	1173	664	N/A	3669	2017	N/A
Land Compensation	87	88	N/A	94	98	N/A
Consolidated Hearings	9	7	N/A	15	16	N/A
TOTAL	2548	2239	1682	5521	4084	2197

Chart E

WORKLOAD STATISTICS

The following table shows the number of files for applications, appeals and referrals received in 1984 and a comparison with the previous two calendar years:

	PE OF APPLICATION, PEAL OR REFERRAL	1004	1000	4000
/ (1		1984	1983	1982
1.	Assessment Appeals	4501	3572	607
2.	Capital Expenditures of Municipalities and School Boards	1600	1854	2254
3.	Zoning By-law Appeals/Approvals	665	1695	2002
4.	Appeals of Councils' Refusal to Amend Zoning By-laws	104	100	103
5.	Minor Variance Appeals	418	455	425
6.	Consent Appeals	404	405	427
7.	Official Plans	139	125	192
8.	Plans of Subdivision	31	56	61
9.	Miscellaneous	74	69	187
10.	Land Compensation	61	69	82
11.	Consolidated Hearings	0	4	11
	TOTAL	7997	8404	6351

BOARD ORDERS								
YEAR	NUMBER OF ORDERS	NUMBER OF FILES DEALT WITH IN ORDERS						
1984 1983 1982	6,475 6,162 5,755	7,215 6,883 6,564						

Chart G

PETITIONS TO CABINET FROM BOARD DECISIONS							
YEAR	CARRIED OVER FROM PREVIOUS YEAR		CONFIRMED	RESCINDED OR VARIED	NEW HEARING	PETITION WITHDRAWN	CARRIED OVER TO NEXT YEAR
1984	47	57	30	17	1	12	44
1983	43	95	54	20	1	16	47
1982	39	113	67	25	5	12	43





Ontario Municipal Board 416/598-2266

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